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PATENT
Docket No.: P1230
[Continuation of P800]

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANT: NOEL LEE

SERIAL NO.: 09/735,697

EXAMINER: SHARON POLK

FILED: DECEMBER 12, 2000

ART UNIT: 2836

FOR: APPARATUS AND METHOD FOR
POWERING MULTIPLE PERIPHERAL
DEVICES FROM A COLOR-CODED
CENTRAL POWER SOURCE

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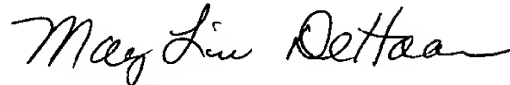
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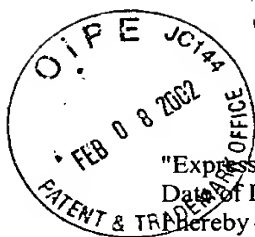
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May Lin DeHaan
Reg. No. 42,472

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PATENT
Docket No. P1230
(CONTINUATION of P800)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANT: NOEL LEE

EXAMINER: SHARON POLK

SERIAL NO.: 09/735,697

ART UNIT: 2836

PRIORITY DOC.: 60/070,317

FILED: DECEMBER 12, 2000

PRIORITY FILED: JANUARY 2, 1998

FOR: APPARATUS AND METHOD FOR POWERING
MULTIPLE PERIPHERAL DEVICES FROM A
COLOR-CODED CENTRAL POWER SOURCE

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**APPELLANT'S BRIEF ON APPEAL
(35 U.S.C. §134(a) and 37 C.F.R. §1.192)**

Dear Sir:

This letter is Appellant's Brief on appeal, under 35 U.S.C. §134(a) and 37 C.F.R. §1.192, from a final rejection of Claims 29-40 in the second final Office Action dated November 5, 2001, issued after reopening of prosecution. This Appeal Brief is being filed in triplicate and is accompanied by the fee as set forth in 37 C.F.R. §1.17(c).



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REAL PARTY IN INTEREST

(37 C.F.R. §1.192(c)(1))

5 The real party in interest is the assignee of the patent application, Monster Cable Products, Inc., doing business at 455 Valley Drive, Brisbane, California 94005-1209.

RELATED APPEALS AND INTERFERENCES

(37 C.F.R. §1.192(c)(2))

10 On information and belief, no related appeals or interferences are pending.

STATUS OF CLAIMS

(37 C.F.R. §1.192(c)(3))

15 This continuation application (U.S. Pat. App. Ser. No. 09/735,697), claiming priority to U.S. Prov. Pat. App. Ser. No. 60/070,317 via U.S. Pat. App. Ser. No. 09/735,697, was filed with Claims 8-9, 11-12, 14-15, 17-18, 20, 23, and 26. A preliminary amendment, canceling Claims 8-9, 11-12, 14-15, 17-18, 20, 23, and 26 and adding Claims 29-40, was also therewith filed. Subsequently, the Examiner issued a final Office Action on August 28, 2001, maintaining her
20 objection of Claims 37, 39, and 40, under 37 C.F.R. §1.75(c), and her rejection of Claims 29-40, under 35 U.S.C. §112, 35 U.S.C. §102(b), and 35 U.S.C. §103(a). A Response to the August 28, 2001, final Office Action was filed on October 5, 2001. The Examiner then reopened prosecution and issued a second final Office Action on November 5, 2001, wherein the Examiner has withdrawn her grounds for objection of the claims on the basis of 37 C.F.R. §1.75(c), and has
25 withdrawn her grounds for rejection of the claims on the bases of 35 U.S.C. §112 and 35 U.S.C. §102(b), while maintaining her rejection of Claims 29-40 under 35 U.S.C. §103(a). The Appellant hereby appeals the November 5, 2001, second final rejection of Claims 29-40.

STATUS OF AMENDMENTS

(37 C.F.R. §1.192(c)(4))

30 No Amendment After Final Rejection nor Amendment After Second Final Rejection has been submitted. The Appellant believes that independent Claims 29, 33, and 38, as filed, fully encompass all of the inventive features as set forth in the Specification and are allowable.

SUMMARY OF INVENTION

(37 C.F.R. §1.192(c)(5))

With the many possible combinations/permutations of electronic components (e.g.,
5 TV, VCR, DVD, etc.) available today, the consumer usually finds himself in a **“confusing
tangled mess”** with respect to handling/managing all the cords emanating therefrom. Such
is the problem with **prior art “plain” plug strips**, which provide no identifying information
at all, where the average consumer needed *superior memory* to recall the electrical
connections which were made long ago or *superior vision* to see those connections from any
10 notable distance made between the plug strip and the equipment being plugged. Further,
prior art means for tagging of electronic equipment were easily worn or dislodged. See
Appendix B, page 57i, for an illustration of the prior art plug strip problems. Solving these
prior art problems, the claimed invention is basically a **solid color-coded plug strip** for
supplying power to **many pieces of electronic equipment**, such as one would require in a
15 home computer system (e.g., computer, printer, scanner, modem, etc.), a home theater
system (e.g., TV, VCR, DVD, etc.), a home sound system CD, receiver, LP turntable,
cassette player, P/A systems, electronic musical instruments, etc.), and a home security
system (e.g., alarm system, surveillance equipment such as closed circuit television, CCTV,
infrared sensor such as IR camera, motion detector, electronic gate motor, intercom, etc.).
20 The presently claimed color coding, as applied to this plug strip, takes into consideration the
human factors engineering principles and practical problems involved in setting-up and
maintaining any of the foregoing electronic home systems for **the typical consumer who may
not have a background in electrical engineering**. The solid colors on the plug strip allow
the consumer **to easily see the connection**, even from a distance without having to remember,
25 squint, or predict that connection. See Appendix B, page 57j, for an illustration of the
present solid color coded plug strip solution to the prior art problems.

The present solid color coded plug strip comprises solid colored areas **on and
surrounding each outlet**. The outlet areas of a prior art plain plug strip may be retrofitted by
solid colored stickers of the present invention kit. In addition, the solid colored areas of the
30 present invention plug strip may have their colors changed to suit the consumer by likewise
retrofitting the strip with the solid colored stickers. The present **solid color coding on the plug**

strip is **substantially more prominent to the human eye than the cited art colored rings or stripes**. A goal of the present invention is to *not* hardwire. Thus, the present invention provides nearly **unlimited flexibility** by allowing the consumer to customize his electronic “hook-ups” without “hang-ups.” Since the color-coding is applied to a plug strip rather than to a specialized electronic apparatus (e.g., a resistor), the user may connect *any* peripheral device to *any* outlet with *any* interconnect that he so chooses. The present invention allows the consumer to define the color-coding via the retrofitting option, because the interconnects and the stickers are not “hardwired.”

An **optional easy-to-use kit** may be provided with this solid color coded plug strip, the kit including **color coded cords, color coded stickers, and color coded indicia** may be provided which allows the consumer to **retrofit a prior art plain plug strip or to reassign the colors of the claimed solid color coded plug strip** as he/she so desires. The color coded stickers and the color coded indicia may be adhered to plain prior art cords and to the electronic component. The color coded indicia have information (e.g., symbols, numbers, words, or acronyms) printed thereon about many types of consumer electronic equipment, enabling the consumer to easily further identify his electronic connection and the particular electronic component.

The present invention, as defined in the claims, is illustrated in Figures 2 and 3 of the Drawings and is described in the Detailed Description of the Invention beginning on page 6, line 27 of the continuation application. In one embodiment of the invention, the AC power distribution apparatus comprises: a solid color coded power strip apparatus 20N; a plurality of color coded power cords 35, 45, 55, (2) 45x, and 55x; and a plurality of color coded indicia elements I_{cx} . The power strip apparatus also comprises a housing with a plurality of AC outlet portions C1, C2, C3, C4, C5, ..., CX corresponding to outlet receptacles 23(a, b, c, d, e, ..., n) for providing AC power to the same plurality of peripheral electrical devices. Each AC outlet housing portion being colored with a first color that is different from another AC outlet housing portion. The plurality of power cords comprise a power cord colored to match said first color. The remaining power cords of the plurality of power cords, comprise power cords colored to match each of the other colors on the power strip 20N. The indicia elements are, by example, an adhesive-backing type label having a color that matches the color of the power cord and the corresponding color of the AC outlet

housing portion. The indicia elements I_{cx} also comprise identifying information (e.g., words, acronyms, numerals, and symbols) about the peripheral device to be powered.

Another embodiment of the present invention comprises a kit. This kit comprises a plurality of indicia element sets for labeling a respective power strip AC outlet portion CX, power cord terminals, and the peripheral device to which AC power is desired to be distributed as well as stickers for retrofitting the portions CX. The kit is also then useful in retro-fitting an after-market AC power strip product.

The presently claimed method consists of the steps of providing the color coded power strip, the color coded power cords, and the color coded indicia elements with identification of the peripheral device 30 and systematically assigning a color to a particular peripheral device 30 to which that particular color is to be associated, and then attaching the color coded power cable to the corresponding AC outlet portion CX on the AC power strip 20N. Alternatively, the present method may be that of providing the kit with indicia elements I_{cx} and assigning a particular color to a peripheral device 30, then applying the indicia element I_{cx} to the power strip AC outlet portion CX, the power cord terminal ends (e.g., 55a, 55b) and to the particular peripheral device 30.

ISSUES

(37 C.F.R. §1.192(c)(6))

- I. Whether Claims 29 and 33 are unpatentable, under 35 U.S.C. §103(a), over a product review article by Leonard Wiener, entitled "SmarterStrip," U.S. News & World Report, published May 5, 1997.
- II. Whether Claims 29-36, 38, and 40 are unpatentable, under 35 U.S.C. §103(a), over U.S. Patent No. 5,589,718 to Lee (also the Applicant of the present invention).
- III. Whether Claims 37 and 39 are unpatentable, under 35 U.S.C. §103(a), over U.S. Patent No. 5,589,718 to Lee, in view of the product review article by Leonard Wiener, entitled "SmarterStrip," U.S. News & World Report, published May 5, 1997.

IV. Whether Claims 33-40 are unpatentable, under 35 U.S.C. §103(a), over U.S. Patent No. 5,589,718 to Lee (also the Applicant of the present invention), in view of U.S. Patent No. 5,775,935 to Barna, and in further view of U.S. Patent No. 5,366,250 to Sunabe.

5 V. Whether Claims 33-40 are unpatentable, under 35 U.S.C. §103(a), over the product review article by Leonard Wiener, entitled "SmarterStrip," U.S. News & World Report, published May 5, 1997, in view of U.S. Patent No. 5,366,250 to Sunabe.

10 VI. Whether rejection of Claims 29-40, under 35 U.S.C. §103(a), is improper under 37 C.F.R. §1.104(d)(2).

VII. Whether rejection of Claims 29-40, under 35 U.S.C. §103(a), is improper under 35 U.S.C. §103(c).

15 **GROUPING OF CLAIMS**
(37 C.F.R. §1.192(c)(7))

The claims do not stand nor fall together.

20 **ARGUMENT**
(37 C.F.R. §1.192(c)(8))

INTRODUCTORY REMARKS

25 On appeal, the Applicant wishes to thank the Examiner for withdrawing her previous grounds for objection to the claims, under 35 U.S.C. §112 and 37 C.F.R. §1.75(c) as well as for withdrawing her rejection of the claims, under 35 U.S.C. §102(b). Claims 29-40 were amended in the Response dated June 26, 2001, to the Office Action dated March 27, 2001, to better encompass the full scope and breadth of the present invention, notwithstanding the Appellant's
30 belief that the claims would have been allowable as originally filed. The claims have not been further amended since the June 26, 2001, Response. Accordingly, the Appellant respectfully

asserts that no claims have been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Claims 29-40 are believed to be fully supported by the specification, and are believed to be in allowable form. Alternatively, the claims are believed to be in form for this appeal. Thus, favorable consideration of the present continuation application is respectfully requested in light of these remarks, the following argument, the appendices, and the herewith submitted exhibits.

I. Whether Claims 29 and 33 are unpatentable, under 35 U.S.C. §103(a), over a product review article by Leonard Wiener, entitled “SmarterStrip,” U.S. News & World Report, published May 5, 1997.

A. Specific nature of the Examiner’s rejection

The Examiner has rejected Claims 29 and 33, under 35 U.S.C. §103(a), as being unpatentable over a product review article by Leonard Wiener, entitled “SmarterStrip,” U.S. News & World Report, published May 5, 1997, asserting (November 5, 2001, Office Action, para. 9): “This article discloses the claimed invention except for peripheral devices. In the same Office Action, the Examiner also cited, but did not rely on, an anonymous article, entitled “Designer Surge Protectors Debut from Kensington,” *Twice*, published April 7, 1997, which discloses “... color coded sockets and matching identification **rings** to be placed on the electrical device that is plugged into it.” [Emphasis added.] By the Examiner’s own cited art, the **colored labels** of the Wiener article have been further described as **colored rings** by the “Twice” article. Indeed, the “Twice” article even includes a photograph showing the **colored rings around each outlet**. The present invention comprises a plurality of discrete, solid colored areas, **each said discrete solid colored area being disposed on and surrounding each outlet**, *not* the Kensington *colored rings*.

Recently, *Larson v. Dept. of the Army*, No. 003041, decided August 14, 2001, by the Federal Circuit (<http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=Fed&navby=case&no=003041>), held that **an administrative judge is prohibited from sweeping-away bothersome evidence under the rug rather than confronting it**. Here, the Examiner has **completely disregarded this patentably distinct feature** throughout the course of her examination and has

further selectively omitted any discussion of the April 7, 1997, "Twice" article, **containing evidence in favor of the Appellant**, in the November 5, 2001, second final Office Action.

In the June 26, 2001, Response, Claim 29 was amended to read: "An AC electrical power strip apparatus having a plurality of color coded indicia for a plurality of electrical outlets thereon for associating a plurality of peripheral devices coupled thereto, said apparatus comprising: an input power cord member; an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets; and a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, **said housing also having a plurality of discrete, solid colored areas, each said discrete solid colored area being disposed on and surrounding each outlet of said plurality of outlets for associating said each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each peripheral device of said plurality of peripheral devices.**" [Emphasis added.]

Claim 33 was also therein amended to read: "An AC electrical power strip apparatus having a plurality of electrical outlets, said apparatus comprising: an input power cord member; an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets; and a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, **said housing also having a plurality of discrete areas for receiving a plurality of solid colored stickers and a plurality of color coded indicia disposed proximately to each outlet of said plurality of outlets for retrofitting said plurality of outlets, said plurality of solid colored stickers and said plurality of color coded indicia for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral devices.**" [Emphasis added.]

B. Analysis in light of the evidence

Notwithstanding Claims 29 and 33 being therein amended to more fully encompass the present invention, the Appellant hereby respectfully traverses the Examiner's grounds for rejection on this basis. In particular, therein amended Claim 29 affirmatively recites a unique feature of the present invention: said housing also having a plurality of **discrete, solid colored**

areas, each said discrete solid colored area being disposed on and surrounding each outlet of said plurality of outlets for associating said each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each peripheral device of said plurality of peripheral devices. Likewise, therein amended Claim 33 affirmatively recites a unique feature of the present invention: said housing also having a plurality of **discrete areas for receiving a plurality of solid colored stickers and a plurality of color coded indicia disposed proximately to each outlet.**

1. **Patentable distinctions between the present invention and the Kensington reference (i.e., the article by Leonard Wiener, entitled “SmarterStrip,” U.S. News & World Report, published May 5, 1997)**

The law, under 35 U.S.C. §103, is well settled that for a cited art reference to render obvious a claimed invention, the combination of claimed elements must be taught, motivated, or suggested by the cited art. The limitations that patentably distinguish Claim 29 from the Kensington reference (Wiener) are as follows:

1. “An AC electrical **power strip** apparatus[;]” and
2. “a plurality of discrete, solid colored areas, **each said discrete solid colored area being disposed on and surrounding each outlet** of said plurality of outlets for associating said each outlet of said plurality of outlets[;]”

and, thus, by dependency, Claims 30-32 and 37 are also patentably distinct from the Kensington reference. The limitations that patentably distinguish Claim 33 from the Kensington reference (Wiener) are as follows:

1. “An AC electrical **power strip** apparatus[;]” and
2. “a plurality of **discrete areas for receiving a plurality of solid colored stickers and a plurality of color coded indicia disposed proximately to each outlet** of said plurality of outlets **for retrofitting said plurality of outlets[;]**”

and, thus, by dependency, Claims 34-36 and 39-40 are also patentably distinct from the Kensington reference.

Claim 29 is patentable over the Kensington reference, because it contains the following language neither found nor illustrated in the Kensington reference: “a plurality of **discrete, solid**

colored areas ... [.]” Claim 33 is patentable over the Kensington reference, because it contains the following language neither found nor illustrated in the Kensington reference: “a plurality of **discrete areas for receiving a plurality of solid colored stickers** and a plurality of **color coded indicia disposed proximately to each outlet of said plurality of outlets for retrofitting said plurality of outlets[.]**” See Appendix B for an illustration of the present **solid color coded** plug strip apparatus (pp. 57b-57c) and photograph of the Kensington **colored-ring** plug strip apparatus (pp. 57e and 57k).

In essence, the Kensington apparatus *merely comprises thin colored rings disposed at a notable radius away from the outlets*. In contrast, the present invention comprises **discrete solid colored areas which are disposed (a) on and (b) surrounding the outlets** (i.e., *proximally surrounding the outlets* as shown in Figs. 1-3), which permits better peripheral device connection identification (especially when viewed by the consumer at any notable distance) than does the Kensington apparatus. Claim 29 clarifies the distinction between these inventions. In contrast, the present invention utilizes *at least three* stickers per color set and further provides either a *solid colored portion* or a *plain portion being retrofitted with a solid colored sticker*.

Reiterating the relevant **human factors** considerations alluded in the May 22, 2000, Response to Final Office Action in the parent case, the present invention **solid colored** portions or portions being retrofitted with **solid colored** stickers **appear more prominent to the human eye than do the cited art colored rings**. As such, the Kensington colored rings do not provide the superior visual indicia of the instant invention. In order to grasp this concept, the physiological concept of *visual acuity*, must be considered with respect to the claimed invention. Two classes of photoreceptors reside in the human eye, rods and cones. Rods perceive light and dark while cones perceive color. *Cones are usually concentrated in an area of the retina where the most direct beams will fall*, the area of greatest concentration being the *fovea centralis*. Ross M. Durham explains:¹

The fovea centralis is directly behind the lens, positioned to be right in the middle of images that enter the eye. It is the focal point of our visual field - the center of optical precision. It's the optic zone where the highest concentration of visual receptors exists; hence, it has the finest “grain” and is the point in the eye of greatest visual acuity. Nearly all the receptors in the human fovea are

¹Robert M. Durham, Human Physiology - Functions of the Human Body, p. 262 (Wm. C. Brown, publishers, 1989).

cones, and there are a great many of them packed into its square millimeter. This is the part of the eye that perceives details for us.

Thus, the greatest visual acuity and the greatest visual efficacy, as human factors, are provided by the present invention use of **solid colored** stickers, **not** by the cited art **colored rings**. By so tailoring the solid colored components in the Appellant's apparatus, the user will be able *to better see and follow a pathway from a given peripheral device to its respective housing member portion*. The Appellant respectfully submits that the Examiner has not appreciated the human factors aspect of the present invention and takes further exception to the Examiner's prior assertion that the foregoing physiological principles are "contrived," as such principles form the very basis of camouflage (e.g., cited art stripes, rings, etc.), the antithesis of the present invention.

In particular, Professors of Environmental Psychology, Drs. Patricia Valdez and Albert Mehrabian, explain the psychology of color perception:²

"Showiness" (assumed here to be indicative of the arousing quality of a color) correlated positively with saturation and brightness. Furthermore, "calmness" (assumed to be indicative of the nonarousing quality of a color) correlated negatively with brightness. Together, these results suggest that arousal is a positive correlate of color saturation and brightness.

...
The following effects of hue were evident across the 23 samples as a group: ... *grey was bad, weak, and inactive; ... and color was good and active*. In addition, ..., and *activity was strongly associated with color (vs. no color)*.

On point is the psychology of **patterned** images (e.g., broken by **rings and stripes**) versus **solid** images (e.g., **uniform blocks** of color) which is well described by Drs. James A. Russell and Albert Mehrabian as an environmental variable in consumer research:³

Psychologists have traditionally explained a person's behavior in general - and consumer behavior in particular - as a function of two classes of variables: those variables describing differences in environments (an environment being anything that is external to the person whose behavior is being explained and that can be measures independently of that person - ...) and those variables describing differences in the persons (whatever a person brings with him to the environment and that can be measured independently of the environment).

...
We first turned to the studies of perception The variables included hue, brightness, and saturation of colors; We therefore turned to evidence on cross-modality in which an individual

²Patricia Valdez and Albert Mehrabian, Effects of Color on Emotion, J. of Experimental Psychology: General, V. 123, p. 396-397, Amer. Psych. Assn., Inc. (1994).

³James A. Russell and Albert Mehrabian, Environmental Variables in Consumer Research, J. of Consumer Research, V. 3, pp. 62-63 (June, 1976).

is stimulated. ... there are basic responses to all types of stimuli. ... from ... color patches to whole environments filled with ... changing physical inputs.

... But information theory ... provides a powerful concept that helps describe the arousing quality of stimuli: **the information rate of an environment**. Environments that include more novel, complex, intense, unfamiliar, improbable, changing, moving, or uncertain aspects are greater in information rate. [Emphasis added.]

As such, the Appellant has utilized human factors engineering for one feature of the present invention (i.e., the solid color-coding aspect) in order to **optimize the information rate for the average consumer** when using the present invention.

C. Conclusion with respect to Issue I

Thus, simple environments (e.g., **color patches** such as in the **present invention**), having **a lower information rate** than complex environments (e.g., **thin colored rings around grey outlets** of Kensington), are **more efficiently perceived and recognized by the user as the mental processing rate is inversely proportional to the information rate** of the environment. Conversely, patterned images require considerably greater visual and mental processing than do solid images. The Appellant respectfully submits that the Kensington invention does not render unpatentable the present invention integral or retrofitted solid color-coding as applied to a plug strip apparatus, intermediate cords, and peripheral devices which provides faster superior visual and mental recognition. Although the Examiner believes that motivation exists for modifying plug strips in general, *the Examiner has not shown that the Kensington reference, camouflaged rings, particularly evidences any solution to the problem of speedy visual identification along the lines of the present invention solid color coding*. Therefore, the Appellant respectfully requests that the Examiner's grounds for rejection of Claims 29 and 33 on this basis be REVERSED.

II. Whether Claims 29-36, 38, and 40 are unpatentable, under 35 U.S.C. §103(a), over U.S. Patent No. 5,589,718 to Lee (also the Applicant of the present invention).

A. Specific nature of the Examiner's rejection

The Examiner has rejected Claims 29-36, 38, and 40, under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 5,589,718 to Lee, stating, "... obvious ... to modify the device

taught by '718 Pat., to include stickers to attach to either: discrete areas of the housing extension cords, or peripheral devices or any combination/sub-combination thereof, because consistent with the scope of the '718 Pat. invention, color indicia/(stickers) attached throughout the entire system ... enables the various outlets provided to be easily identified and thus insures that each component connected thereto will be connected to an outlet specifically designed for the particular electronic characteristic for the component." Claims 29-36, 38, and 40 have been previously either actually or constructively amended in the June 26, 2001, Response.

B. Analysis in light of the evidence

Notwithstanding Claims 29-36, 38, and 40 being therein either actually or constructively amended to better encompass the present invention, the Appellant respectfully traverses the Examiner's grounds for rejection on this basis. Claim 29 was amended in the June 26, 2001, Response to better encompass the instant invention, as discussed supra. Claim 33 was amended in the June 26, 2001, Response to better encompass the instant invention, as discussed supra. Claims 34-36 subsume the limitations of the claims from which they depend.

Claim 34 retains the language "a plurality of sets of a plurality of **solid colored stickers for selective attachment to an interconnecting electrical cord and to each said peripheral device** utilizing said power strip apparatus." Claim 35 retains the language "a plurality of **solid colored electrical extension cords** for selective attachment to said power strip apparatus." Claim 36 retains the language "a plurality of sets of **solid colored stickers for selective attachment to an interconnecting electrical cord and to each said peripheral device** utilizing said solid colored electrical extension cord."

Claim 37 affirmatively recites "an AC electrical power strip apparatus, as recited in Claim 29, further comprising **a kit, the kit comprising: a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to said each peripheral device** utilizing said power strip apparatus."

Claim 38 affirmatively recites a method of providing AC power to a plurality of peripheral devices by color-coding, said method comprising the steps of: (a) providing an AC electrical power strip apparatus having a plurality of color coded indicia for a plurality of electrical outlets thereon for associating a plurality of peripheral devices coupled thereto, said

apparatus comprising: an input power cord member, an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets, and a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, said housing also having a plurality of discrete, solid colored areas disposed on and surrounding each outlet of said plurality of outlets for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral devices; (b) providing a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus; (c) providing an indicia element on each said solid colored area with identification information of each said peripheral device to be plugged to a solid colored area; (d) tagging each said peripheral device with one of said provided solid colored stickers; (e) tagging said interconnecting electrical cord with one of said provided solid colored stickers; and (f) attaching the tagged interconnecting electrical cord to the corresponding solid colored area on the AC power strip.

Claim 39 affirmatively recites an AC electrical power strip apparatus, as recited in Claim 33, further comprising a kit, the kit comprising: a plurality of sets of at least three like solid colored stickers, one of said set for selective attachment to said each area, to an interconnecting electrical cord, and to a peripheral device utilizing said power strip apparatus. Claim 40 affirmatively recites a plurality of solid colored electrical extension cords for selective attachment to said power strip apparatus of Claim 39. Claims 37-40 subsume the limitations of the therein amended claims from which they depend.

1. Evidence of both common ownership and secondary considerations, under 37 C.F.R. §1.132, from the Declaration of the Appellant Noel Lee

In the first final Office Action (para. 8), the Examiner stated that the Declaration lacked sufficient evidence of long-felt need. In the second final Office Action (para. 29), **the Examiner maintains her position that Exhibit A of the Declaration (of record) is not the claimed invention (para. 2) in order to summarily dismiss the issue of common ownership as well as the 35 U.S.C. §103(c) issues raised by the Appellant.** Again, the drawing *generally shows*

a viable prototype of the claimed central power source having the distinct solid color coding scheme. That the submitted formal drawings are clearer, should not render the **July 28, 1994, informal lab drawing**, in the Declaration's Exhibit A (of record), non-representative of the claimed invention.

Further, Engineer David Pitcher was under an "obligation of assignment" to Monster Cable Products, Inc. of the present invention as well as of the misappropriated "Kensington" subject matter. As evidence, a copy of the Patent and Confidential Information Agreement, signed by David Pitcher, in favor of Monster Cable Products, Inc. is herewith submitted in Exhibit C. In addition, the '718 Patent is commonly owned by Monster Cable Products, Inc.. **Therefore, the Appellant respectfully resubmits that the claimed invention and the subject matter of the '718 Patent as well as the subject matter of the Kensington reference were commonly owned and under obligation of assignment at the time the present invention was made, and, therefore, are subject to the cited art disqualification provisions of 35 U.S.C. §103(c).**

The Examiner has cited *Demaco Corp. v. F. Von Langsdorf Licensing, Ltd.* (1988), in asserting insufficient evidence of commercial success (final Office Action, para. 7). The Appellant respectfully asserts that the Declaration of Noel Lee, under 37 C.F.R. §1.132, provides sufficient evidence of the nexus between commercial success and the merits of the present invention. The **general rule for sufficiency of evidence** with respect to commercial success is stated in *Winner International Royalty Corp., Inc. v. Wang*, No. 96-2107, 48 USPQ2d 1139 (D.C.D.C. June 12, 1998), decided 10 years after and being consistent with *Demaco*: **"Plaintiff's evidence is sufficient to establish commercial success of invention ..., since evidence shows that plaintiff has sold more than 1.5 million devices, worth more than \$60 million in sales, since this economic data supports plaintiff's position that its device is able to command significantly higher retail price ... to meet peculiar needs of certain consumers, ... is clearly consistent with the fact of commercial success."**

In the present case, Noel Lee's Declaration (para. 7), under 37 C.F.R. §1.132, states, **"A need for a solid color-coded central power source has been long felt in the electronic components industry.** Although stymied by the peripheral device connection confusion imparted by plain plug strips, the industry had made no progress toward my solution to the problem. No other manufacturer has been known to have made a solid color-coded central

power supply having peripheral device identification prior to my invention. Further, the present invention is currently experiencing record sales and has dominated the market sector in the area of plug strips both domestically and in Asia. In addition, two large retailers, Good GuysTM and Sound AdviceTM have completely discontinued sales of the competitor's plug strip (PanamaxTM) and are exclusively carrying only the present invention central power supply (See Exhibit B [of record] containing Monster Cable Products, Inc.'s sales figures; also see herewith submitted Declaration under Rule 132 of Karen Johnson for Good Guys, Inc.)." Specifically, Exhibit B of his Declaration (of record) demonstrates 458,010 units sold worth \$8,857,605.13 in retail sales to the date of November 13, 2000. The Examiner even concedes (second final Office Action, para. 4) that the Declaration of Noel Lee "may be persuasive regarding commercial success and long felt need." Thus, under *Winner*, Noel Lee's Declaration provides sufficient evidence of the nexus between the merits of the invention and commercial success. Therefore, the Appellant respectfully requests reconsideration of Noel Lee's Declarations.

2. Evidence of secondary considerations, under 37 C.F.R. §1.132, from the Declaration of the Retailer Karen Johnson under 37 C.F.R. §1.132

In the final Office Action (paras. 7 and 8), the Examiner stated that the Declaration of Karen Johnson of Good Guys, Inc. lacked evidence of the requisite nexus between the factor of commercial success and the merits of the claimed invention. In the final Office Action (para. 8), the Examiner stated that the Declaration lacked sufficient evidence of long-felt need. The Appellant respectfully asserts that the Declaration of Karen Johnson *likewise provides sufficient evidence of the nexus between commercial success and the merits of the present invention*. As discussed supra, the general rule of *Winner* is also applicable here: **"Plaintiff's evidence is sufficient to establish commercial success of invention ..., since evidence shows that plaintiff has sold more than 1.5 million devices, worth more than \$60 million in sales, since this economic data supports plaintiff's position that its device is able to command significantly higher retail price ... to meet peculiar needs of certain consumers, ... is clearly consistent with the fact of commercial success."**

Here, Ms. Karen Johnson's Declaration (para. 3) states, **"A need for a solid color-coded central power source has been long felt in the electronic components retail industry.** Although retail consumers have been stymied by the peripheral device connection confusion imparted by plain plug strips, the manufacturing industry had made no progress toward the Monster solution as no other manufacturer was known to have made a solid color-coded central power supply having peripheral device identification prior to the present invention. Further, **the Monster product is currently experiencing record sales through our retail chain and has dominated the market sector in the area of plug strips.** In addition, we have completely discontinued sales of the competitor's plug strip (Panamax™) and are exclusively carrying only the Monster color-coded central power supply **(See Exhibit A [of record] containing out retail sales figures and market share data).**" Specifically, Exhibit A of her Declaration (of record) shows **31,657 units sold worth \$1,487,796.83 in retail sales** to the date of November 13, 2000. The Examiner even concedes (second final Office Action, para. 4) that the Declaration of Karen Johnson "may be persuasive regarding commercial success and long felt need." Thus, under *Winner*, Karen Johnson's Declaration also provides sufficient evidence of the nexus between the merits of the invention and commercial success. Therefore, the Appellant respectfully requests reconsideration of Karen Johnson's Declaration.

3. Evidence of patentably distinct combination of features and their unexpectedly superior advantages in the present invention, under 37 C.F.R. §1.132, from the Declaration of the Expert Witness Environmental/Social Psychologist Dr. Albert Mehrabian

In the first final Office Action (para. 9), the Examiner persists in result-oriented circumlocution by stating that "However, as interpreted[,], the declaration supports the notion of expected beneficial results. 'A solid color-coded device having peripheral device identification, constitutes a sol[i]d colored image which requires far less mental processing than required by the cited art' It appears that through his extensive research, [Dr. Mehrabian] expects for there to be a 'substantial advantage in using solid colors of high chroma ... expected beneficial results are evidence of obviousness just as unexpected results are evidence of unobviousness.'" What is *at issue* here is *not whether there is "substantial advantage in using solid colors of high*

chroma,” but whether “using solid colors of high chroma” in combination with a central power center (e.g., a plug strip apparatus) or a central power center kit is obvious.

Further, the first sentence quoted by the Examiner is a statement of the expert witness’ findings as to the unexpected results of the present invention *combination of elements*, not a statement regarding his knowledge of *solid colors of high chroma* alone. After examining, discussing, and distinguishing the cited art references (e.g., the ’718 Patent) as well as prototypes of both the present invention and the Kensington apparatus, Dr. Mehrabian concluded: “Thus, the present invention, ... comprising a **solid color-coded device** [plug strip apparatus] having **peripheral device identification**, constitutes a **solid color image** which requires far less mental processing than required by the cited art that appears to be patterned color image (striped and ringed) devices, and therefore, **provides superior visual perception, mental recognition, and mental retention of associations between each peripheral device and its corresponding housing portion.**” Therefore, the Appellant respectfully requests reconsideration of Dr. Mehrabian’s Declaration.

4. Present invention combination of features patentably distinct from the Appellant’s own ’718 Patent

The law, under 35 U.S.C. §103, is well settled that for a cited art reference to render obvious a claimed invention, the combination of claimed elements must be taught, motivated, or suggested by the cited art. The limitations that patentably distinguish Claim 29 from the ’718 Patent are as follows:

1. “An AC electrical **power strip** apparatus[;]” and
2. “a plurality of discrete, solid colored areas, **each said discrete solid colored area being disposed on and surrounding each outlet** of said plurality of outlets for associating said each outlet of said plurality of outlets[;]”

and, thus, by dependency, Claims 30-32 and 37 are also patentably distinct from the ’718 Patent. The limitations that patentably distinguish Claim 33 from the ’718 Patent are as follows:

1. “An AC electrical **power strip** apparatus[;]” and
2. “a plurality of **discrete areas for receiving** a plurality of **solid colored stickers** and a plurality of **color coded indicia disposed proximately** to each outlet of said plurality

of outlets for retrofitting said plurality of outlets[;]"

and, thus, by dependency, Claims 34-36 and 39-40 are also patentably distinct from the '718 Patent. As discussed, supra, with respect to Issue III, Claim 37 is also patentably distinct from the '718 Patent by dependency from Claim 29. The limitations that patentably distinguish Claim 38 from the '718 Patent are as follows:

1. "an AC electrical **power strip** apparatus having a plurality of **color coded indicia** ...;" and
2. "a plurality of **discrete, solid colored areas disposed proximately on and surrounding each outlet** of said plurality of outlets for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral devices;"
3. "a plurality of sets of **solid colored stickers** for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus;"
4. "an indicia element on each said solid colored area with **identification information of each said peripheral device** to be plugged to a solid colored area;"
5. "**tagging** each said **peripheral device** with one of said provided **solid colored stickers**;"
6. "**tagging** said **interconnecting electrical cord** with one of said provided **solid colored stickers**;" and
7. "**attaching** the **tagged** interconnecting electrical **cord** to the **corresponding solid colored area** on the AC power strip."

See again Appendix B for illustrations of the claimed solid color coded plug strip and kit (pp. 57b-57c) and the '718 Patent power line conditioner (p. 57d).

Reiterating, the solid colored areas, or areas being retrofitted by solid colored stickers, of the present invention are substantially more prominent to the human eye than the cited art colored rings or stripes, as discussed supra. In further support, please see details contained in the previously submitted Declaration of Dr. Albert Mehrabian, under 37 C.F.R. §132. In addition, the very purpose of the present invention is to *not* hardwire. Thus, the present invention provides nearly unlimited flexibility in allowing the user of any type of electronic peripheral device to customize his/her electronic "hook-ups" without "hang-ups" to an AC power strip. Since the color-coding is applied to a plug strip rather than to a specialized electronic

apparatus, the user may connect *any* peripheral device to *any* outlet with *any* interconnect that he/she so chooses. The present invention allows the user to designate (via the retrofitting option) the color-coding, because the interconnects and the stickers are not “hardwired.” Only the present application teaches the unique set of features comprising: (a) color-coding of a power strip using *solid* colors for each power outlet (See Claims 29, 30, 31, 32); (b) power cords in solid colors to correspond to the colors in the power strip, or, alternatively, colored stickers that can be attached to existing power cords supplied by manufacturers (See Claim 31); (c) colored labels for retrofitting an existing power strip (See amended Claim 33) or, alternatively, colored stickers with labels that can be attached to existing cords and/or equipment (See Claim 32); and (d) a plurality of power outlets in conjunction with corresponding different solid colors for each outlet (See Claims 29, 33, 37, 38, 39).

Also, areas of the housing member are either integrally or retrofittedly provided with solid color coded stickers and solid color coded indicia for distinguishing and associating a particular peripheral device to be electrically engaged at an outlet. Thus, while the solid colored stickers serve to identify the pathway (via any intermediate combination of cords) to a peripheral device, either a solid colored area of the housing member or a solid colored sticker having an integrally formed indicia identifies that device (e.g., symbols, numbers, words, or acronyms) in the present invention.

C. Conclusion with respect to Issue II

Thus, the '718 Patent does not teach, suggest, nor motivate the independent Claim 29 which recites, “An AC electrical power strip apparatus having a plurality of color coded indicia for a plurality of electrical outlets thereon for associating a plurality of peripheral devices coupled thereto, said apparatus comprising: an input power cord member; an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets; and a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, said housing also having a plurality of **discrete, solid colored areas**, each said **discrete solid colored area** being disposed **on and surrounding each outlet** of said plurality of outlets for associating said each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of

outlets with each peripheral device of said plurality of peripheral devices.” As such, the ’718 would not teach, suggest, nor motivate the further combined elements of Claims 30-32 and 37 which are dependent from Claim 29.

Similarly, the ’718 Patent does not teach, suggest, nor motivate the independent Claim 33 which recites, “An AC electrical power strip apparatus having a plurality of electrical outlets, said apparatus comprising: an input power cord member; an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets; and a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, said housing also having a plurality of **discrete areas for receiving a plurality of solid colored stickers** and a plurality of **color coded indicia disposed proximately to each outlet** of said plurality of outlets for retrofitting said plurality of outlets, said plurality of **solid colored stickers** and said plurality of **color coded indicia** for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral devices.” As such, the ’718 would not teach, suggest, nor motivate the further combined elements of Claims 34-37 and 39-40 which are dependent from Claim 33.

Likewise, the ’718 Patent does not teach, suggest, nor motivate the independent Claim 38 which recites, “A method of providing AC power to a plurality of peripheral devices by color-coding, said method comprising: (a) providing an AC electrical power strip apparatus having a plurality of **color coded indicia** for a plurality of electrical outlets thereon for associating a plurality of peripheral devices coupled thereto, said apparatus comprising: an input power cord member, an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets, and a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, said housing also having a plurality of **discrete, solid colored areas** disposed on and surrounding each outlet of said plurality of outlets for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral devices; (b) providing a plurality of sets of **solid colored stickers** for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus; (c) providing an **indicia element on each said solid colored area with identification information of each said peripheral device to be plugged to a solid colored**

area; (d) tagging each said peripheral device with one of said provided **solid colored stickers**; (e) tagging said interconnecting electrical cord with one of said provided **solid colored stickers**; and (f) attaching the tagged interconnecting electrical cord to the corresponding **solid colored area** on the AC power strip. Therefore, the Appellant respectfully requests that the Examiner's grounds for rejection of Claims 29-36, 38, and 40 on this basis be REVERSED.

III. Whether Claims 37 and 39 are unpatentable, under 35 U.S.C. §103(a), over U.S. Patent No. 5,589,718 to Lee (Appellant's own patent), in view of the product review article by Leonard Wiener, entitled "SmarterStrip," U.S. News & World Report, published May 5, 1997.

A. Specific nature of the Examiner's rejection

The Examiner has rejected Claims 37 and 39, under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 5,589,718 to Lee, in view of the product review article by Leonard Wiener, entitled "SmarterStrip," U.S. News & World Report, published May 5, 1997, stating "... obvious ... to modify the '718 Pat. to include a kit of labels because the '718 Pat. teaches that interconnect the above components could have a red designation (whether it be by coloring the cables red or applying a red indicia." Claims 37 and 39 were amended in the June 26, 2001, Response to better encompass the instant invention, as discussed supra.

B. Analysis in light of the evidence

Notwithstanding Claims 37 and 39 being therein amended to more fully encompass the present invention, the Appellant hereby respectfully traverses the Examiner's grounds for rejection on this basis. In particular, therein amended Claim 37 affirmatively recites, "An AC electrical power strip apparatus, as recited in Claim 29, further comprising a kit, the kit comprising: **a plurality of sets of solid colored stickers** for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus." Claim 39 affirmatively recites, "An AC electrical power strip apparatus, as recited in Claim 33, further comprising a kit, the kit comprising: **a plurality of sets of at least three**

like solid colored stickers, one of said set for selective attachment to said each area, to an interconnecting electrical cord, and to a peripheral device utilizing said power strip apparatus.”

5 1. **Present invention combination of features patentably distinct from the Appellant’s own ’718 Patent and from the Kensington reference**

The law, under 35 U.S.C. §103, is well settled that for a cited art reference to render obvious a claimed invention, the combination of claimed elements must be taught, motivated, or suggested by the cited art. The limitations that patentably distinguish Claim 37 from the ’718 Patent and the Kensington reference are as follows:

- 10
1. “An AC electrical **power strip** apparatus[;]” and
 2. “a plurality of discrete, solid colored areas, **each said discrete solid colored area being disposed on and surrounding each outlet** of said plurality of outlets for associating said each outlet of said plurality of outlets[;]”
 - 15 3. “a kit, the kit comprising: **a plurality of sets of solid colored stickers** for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus.”

The limitations that patentably distinguish Claim 39 from the ’718 Patent and the Kensington reference are as follows:

- 20
1. “An AC electrical **power strip** apparatus[;]” and
 2. “a plurality of **discrete areas for receiving** a plurality of **solid colored stickers** and a plurality of **color coded indicia disposed proximately to** each outlet of said plurality of **outlets for retrofitting said plurality of outlets[;]**”
 - 25 3. “a kit, the kit comprising: **a plurality of sets of at least three like solid colored stickers, one of said set for selective attachment to said each area, to an interconnecting electrical cord, and to a peripheral device utilizing said power strip apparatus.**”

See again Appendix B for illustrations of the claimed solid color coded plug strip and kit (pp. 30 57b-57c), the ’718 Patent power line conditioner (p. 57d), and the photograph of the Kensington **colored-ring** plug strip apparatus (pp. 57e and 57k).

The Examiner concedes that the '718 Patent merely teaches "a **red** designation (whether it be by coloring the cables **red** or applying a **red** indicia." The "'718 Patent teaches **only red** designations and rings and stripes. Thus, even the '718 Patent does not teach, suggest, nor motivate a **multiplicity of different solid colored portions for outlets on a plug strip**.
5 Reiterating, the Kensington apparatus *merely comprises thin colored rings disposed at a notable radius away from the outlets*. In contrast, the present invention comprises **discrete solid colored areas which are disposed on and surrounding the outlets** (i.e., *proximally surrounding the outlets* as shown in Figs. 1-3), which permits better peripheral device connection identification than does the Kensington apparatus. The relevant human factors considerations have been discussed, supra.
10

Thus, the Appellant respectfully submits that Claim 37 is patentable over the '718 Patent, even in view of the Kensington reference, because the cited art does not teach, motivate, nor suggest the following claimed combination of elements: an AC electrical **power strip** apparatus;
15 a plurality of discrete, solid colored areas, **each said discrete solid colored area being disposed on and surrounding each outlet** of said plurality of outlets for associating said each outlet of said plurality of outlets; and a kit, the kit comprising: **a plurality of sets of solid colored stickers** for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus.

Likewise, the Appellant respectfully submits that Claim 39 is patentable over the '718 Patent, even in view of the Kensington reference, because the cited art does not teach, motivate, nor suggest the following claimed combination of elements: an AC electrical **power strip** apparatus; a plurality of **discrete areas for receiving** a plurality of **solid colored stickers** and a plurality of **color coded indicia disposed proximately to each outlet** of said plurality of
25 **outlets for retrofitting said plurality of outlets**; and a kit, the kit comprising: **a plurality of sets of at least three like solid colored stickers, one of said set for selective attachment to said each area, to an interconnecting electrical cord, and to a peripheral device utilizing said power strip apparatus**.

30 C. Conclusion with respect to Issue III

Thus, the Appellant respectfully submits that the "'718 Patent, even in view of the Kensington reference, does not teach, motivate, nor suggest combining **solid colored areas** with

a kit comprising: a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus (Claim 37) nor combining discrete areas for receiving a plurality of solid colored stickers with a kit comprising: a plurality of sets of at least three like solid colored stickers, one of said set for selective attachment to said each area, to an interconnecting electrical cord, and to a peripheral device utilizing said power strip apparatus (Claim 39). Therefore, the Appellant respectfully requests that the Examiner's grounds for rejection of Claims 37 and 39 be REVERSED.

IV. Whether Claims 33-40 are unpatentable, under 35 U.S.C. §103(a), over U.S. Patent No. 5,589,718 to Lee, in view of U.S. Patent No. 5,775,935 to Barna, and in further view of U.S. Patent No. 5,366,250 to Sunabe.

A. Specific nature of the Examiner's rejection

The Examiner has rejected Claims 33-40 under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 5,589,718 to Lee, in view of U.S. Patent No. 5,775,935 to Barna, and in further view of U.S. Patent No. 5,366,250 to Sunabe, stating "It would have been obvious ... to modify the teachings of '718 Pat., and Barna, with the teachings of Sunabe because as Sunabe discloses a visual pattern system reduces errors in wiring, and also makes tracing easier, and provides codes with stand out from conventional wiring diagrams, by 'providing two indicia in a single component." Claims 33-40 have been either actually or constructively amended in the June 26, 2001, Response.

B. Analysis in light of the evidence

Notwithstanding Claims 33-40 being therein amended to better encompass the present invention, the Appellant hereby respectfully traverses the Examiner's grounds for rejection on this basis. Claims 33-40 have been previously amended, as discussed supra. The Appellant respectfully resubmits that the Examiner's grounds for rejection (even of Claims 29-32) involve impermissible hindsight reconstruction and that the rejection based on such impermissible hindsight reconstruction is improper.

1. Relevant case law with respect to application of 35 U.S.C. §103(a)

In the March 27, 2001, Office Action, the Examiner has asserted her position by quoting *In re Bozek*, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969):

It is the examiner's position that this is obvious. It is [] well settled that obviousness may be concluded from **common knowledge** and **common sense** of the person skilled in the art without a specific hint or suggestion. It is **common sense** that the stickers (or any other matching indicia) are essential to the invention. It is the examiner's position that Appellant is attempting to patent an old idea that is not novel. This after-market kit could be colored duct tape, colored diskette labels, post-it™ notes or tabs, packed with as many colors to accommodate the outlets of a power strip. **Person with less than that of ordinary skill in the art** have used labels or indicia means to color-code/ match.

As the Examiner has not cited *In re Bozek* in the final Office Action, the Appellant wishes to thank her for recognizing the inapplicability of *In re Bozek*, decided back in 1969, which has been implicitly narrowed by *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992):

Vital Signs has not offered sufficient independent evidence to support the district court's decision to combine elements from different references, arguing only that the suggestion to combine references comes from knowledge and common sense of a person of ordinary skill in the art. See, e.g., *In re Bozek*, **That common knowledge may have been within the province of the ordinary artisan does not in and of itself make it so, absent clear and convincing evidence of such knowledge.** See *C.R. Bard, Inc. v. M3 Sys., Inc.*, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998); *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc.*, 776 F.2d 281, 297-98, 227 USPQ 657, 667 (Fed. Cir. 1985). Vital Signs, thus failed ... to establish why one of ordinary skill would have found it obvious to combine ... limitations in a particular way to achieve the ... invention.

However, the Appellant resubmits that *In re Jones* (1992), in restating the rule of *In re Fine* (1988) further defines the requisite suggestion for sustaining a §103(a) rejection:

Before the PTO may combine the disclosures of two or more prior art references in order to establish prima facie obviousness, **there must be some suggestion for doing so** *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598-99 (Fed. Cir. 1988). [at 1943] [emphasis added]

... the combination ... is not an extraordinary invention; it is deceptively simple. However, simplicity alone cannot be determinative of obviousness. See *Gentry Galley, Inc. v. Berklene Corp.*, 143 F.3d 1473, 1478 [45 USPQ2d 1498] (Fed. Cir. 1998); See also *In re Oetiker*, 977 F.2d 1443, 1447 [24 USPQ2d 1443] (Fed. Cir. 1992) ("**Simplicity alone is not inimical to patentability.**"). The standard of obviousness is not whether in hindsight, it seems elementary that someone would have combined these certain elements in the prior art to form the invention in question. It is insufficient to prove that at the time of the claimed invention, the separate elements of the device were present in the known art. Rather, there must have been some explicit teaching or suggestion in the art to motivate one of even ordinary skill to combine such elements so as to create the same invention. See *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 119 F.3d 953, 957 [43 USPQ2d 1294] (Fed. Cir. 1997).

The prior art **must provide** one of ordinary skill in the art the **motivation** to make the proposed molecular modifications needed to arrive at the claimed compound. [at 1944] [emphasis added]

The Appellant respectfully submits that the Examiner, in citing *In re McLaughlin*, 170 USPQ 209 (1971), has utilized the claimed invention's simplicity in rationalizing a §103(a) rejection of the claims under the *guise of "permissible hindsight,"* especially in light of the March 27, 2001, Office Action (para. 43), wherein the Examiner stated that a "person with *less than* that of *ordinary skill* in the art have used labels or indicia to color-code/match," and the August 28, 2001, final Office Action (para. 32), wherein the Examiner stated that "person[']s *with no skill* in the art have used labels or indicia to color-code/match." The Appellant hereby respectfully takes exception to the Examiner's implicit disparagement of the present invention under the guise of "Official Privilege" in these examination proceedings.

Nonetheless, *In re McLaughlin* actually held much more than that which the Examiner indicated in the final Office Action: "... the test for combining references is **not what the individual references themselves suggest but rather what the combination of disclosures taken as a whole would suggest** to one of ordinary skill in the art." *In re McLaughlin*, 170 USPQ at 212 (1971). The Court there further REVERSED the Board's decision as to Claim 15, basing the reversal on a Rule 1.132 affidavit submitted by the appellant: "The evidence, comprising **two affidavits and a series of exhibits**, indicates that the invention has been **commercially successful** and that its **concept was promptly adapted by a competitor**. Recognizing that the **inference of obviousness** drawn from the prior art disclosures is **only prima facie justification** for drawing the ultimate legal conclusion that the claimed invention is unpatentable under 35 U.S.C. 103, it is **imperative** that such **secondary considerations** also be evaluated in determining the final validity of that legal conclusion. We **emphasize** that such is true even where, as here, the claimed invention involves **only relatively simple mechanical concepts**. 'A patentable invention, within the ambit of 35 U.S.C. 103, *may result even if the inventor has*, in effect, **merely combined features, old in the art, for their own purpose, without producing anything beyond the results inherent in their use.**'" *In re McLaughlin*, 170 USPQ at 212 (1971) [Emphasis added].

In the instant case, the Examiner has pointed to only individual features of the claimed invention in the individual references. Further, the Examiner concedes (first final Office Action, para. 31) that "**Admittedly, the reasons for color coding may be different**" but goes on to conclusorily state that "the teachings are there nonetheless." The Examiner has not shown that the combination of the disclosures taken as a whole suggest the claimed invention. **Since the**

Examiner herself concedes that the “*reasons*” for color-coding between the present invention and the combined cited art are distinct, the Appellant respectfully submits that *neither suggestion nor motivation can then be reasonably inferred*. Even if the concept of color-coding, in general, has been known, **the concept has never been applied to a plug strip apparatus** until the present invention. The Examiner has yet to present any evidence that “a person *of ordinary skill in the art*,” the relevant art here being in *the area of plug strip apparatuses*, would have thought to combine a **plug strip** with (1) a **solid color coding system**, with (2) optional peripheral device indicia, and/or with (3) an optional sticker kit.

In the first final Office Action, the Examiner summarily dismissed the Declaration of the Appellant Noel Lee, which testified to the **commercial success** on the order of **458,010 units sold worth \$8,857,605.13 in wholesales** last year as well as to the **nexus** between this commercial success and the merits (i.e., color-coding the plug strip) of the claimed invention, and the Declaration of Retailer Karen Johnson, which testified to the **commercial success** on the order of **31,657 units sold worth \$1,487,796.83 in retail sales** last year as well as to the **nexus** between this commercial success and the merits (i.e., color-coding the plug strip) of the claimed invention. In addition, like as in the facts of *McLaughlin*, **the concept was promptly adapted by the competitor Kensington** as demonstrated by the Declarations of the Appellant Noel Lee (para. 6 of both Declarations). Likewise, the Examiner has summarily dismissed the relevance of all the submitted Exhibits of record. Yet, in the second final Office Action (para. 4), the Examiner concedes that the Declarations of Noel Lee and Karen Johnson “may be persuasive regarding commercial success and long felt need.”

Besides the Declarations of Noel Lee and Karen Johnson, the Examiner has made much ado about Expert Witness Dr. Mehrabian’s 1.132 Declaration, contending that “he expects there to be a ‘substantial advantage in using solid colors of high chroma’ to support her position that “expected beneficial results are evidence of obviousness just as unexpected results are evidence of unobviousness.” Yet, **by the Examiner’s very own cited case law**, *In re McLaughlin* also held that “**A patentable invention, within the ambit of 35 U.S.C. 103, may result even if the inventor has, in effect, merely combined features, old in the art, for their own purpose, without producing anything beyond the results inherent in their use.**” Therefore, even if the combination of the instant claimed elements only produced results “inherent in their use” (i.e., “expected beneficial results”), as is asserted by the Examiner, the Appellant respectfully submits that this circumstance **would not and does not preclude patentability** under *McLaughlin*.

Further, *In re Fritch*, 922 F.2d 1260, 23 USPQ.2d 1780 (Fed. Cir. 1992), held:

Mere fact that prior art may be modified to reflect features of claimed invention does not make modification, and hence claimed invention, obvious **unless desirability of such modification is suggested by prior art** [at 1780] [emphasis added]

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious **unless the prior art suggested the desirability of the modification.** *In re Gordon*, 733 F.2d at 902, 221 USPQ at 1127. [at 1783] [emphasis added]

More recently, *Winner International Royalty Corp. v. Wang*, No. 96-2107, 48 USPQ.2d 1139 (D.C.D.C. 1998) has reinforced the foregoing rule, that the motivating suggestion must be explicit, in holding:

... invention cannot be found obvious **unless there was some explicit teaching or suggestion in art to motivate** one of even ordinary skill to combine elements so as to create same invention. [at 1140] [emphasis added]

... there **must have been some explicit teaching or suggestion in the art to motivate** one of even ordinary skill to combine such elements so as to create the same invention. [at 1444] [emphasis added]

The Appellant respectfully submits that, from the very beginning of examination, the Examiner has prejudged the instant case under a misconception of the current case law as well as under an impermissible hindsight impression of the present invention. On May 10, 2000, the Appellant placed a routine telephone call to the Patent and Trademark Office seeking to conduct a telephonic interview with the Examiner. During that telephone contact, the Examiner reluctantly granted the telephonic interview which was conducted the next day, May 11, 2000. During the May 11, 2000, telephonic interview, the Appellant proposed submission of an informal Response to the outstanding Office Action with a proposed amendment to the claims. The Examiner therein stated that she would not consider an informal Response, but would only entertain a formal Response. However, the Examiner also therein stated that "I just don't see anything inventive here." The Appellant therein attempted to discuss any allowable subject matter with respect to the distinct combination of elements; however, the Examiner was not open to such discussion.

The Appellant further takes great exception to the Examiner's characterization of the foregoing statement of facts as being inaccurate (November 5, 2001, second final Office Action, para. 5). **No Interview Summary from the Examiner has ever been received by the Appellant.** The Appellant's Attorney has consistently received a copy of any Interview Summary, generated by any other Examiner in any other case, shortly after such interview has

been conducted, where a summary has, in fact, been generated. Rather, the excerpt from the alleged Interview Summary (November 5, 2001, second final Office Action, para. 5) appears to have been post-generated sometime between the date of Appellant's October 5, 2001, Response to the first final Office Action and the November 5, 2001, date of the second final Office Action, specifically for preparing the November 5, 2001, second final Office Action to rebut the issues raised by the Appellant in the October 5, 2001, Response and in attempt to further bolster the Examiner's intractable position.

The Examiner rationalizes (November 5, 2001, second final Office Action, para. 6): "A reference that is directed to another art but teaches, or *fairly suggest* the claimed invention is a proper reference under §103." [Emphasis added.] The Examiner's statement of the law, concerning 35 U.S.C. §103, flies directly in the face of *Winner International Royalty Corp. v. Wang*, which requires that the **suggestion must be explicit**. Consequently, the Examiner has **not proffered any evidence of explicit teaching or suggestion** in the relevant art (i.e., plug strip apparatuses) to motivate one of even ordinary skill to combine elements so as to create the claimed invention during the course of this **long and protracted prosecution**.

Recently, on November 2, 2000, a rejection of claims under 35 U.S.C. §103 was REVERSED by the U.S.P.T.O. Board of Patent Appeals and Interferences in *Ex Parte Yamamoto*, 57 USPQ2d 1382, 1384, on the ground that the *examiner's mere conjecture and speculation* (e.g., the Examiner's assertion of "common sense and common knowledge"), that one of ordinary skill in the art would have considered a prior art composition used for stabilizing higher aliphatic aldehyde compounds to also be useful for stabilizing the Appellant's claimed functional-group-containing compounds, *are insufficient for making an obviousness rejection*.

The appealed invention of *Ex Parte Yamamoto* involves a method for stabilizing a *long-chain unsaturated aliphatic* ester, alcohol, ketone, or hydrocarbon, having at least ten carbon atoms and at least one double bond, by admixing with stabilizers *2'-(2'-hydroxy-5'methylphenyl)benzotriazole* and a *phenolic compound* at 0.1 - 10 wt. % of the long-chain unsaturated aliphatic compound. The examiner's cited reference, Ishihara et al. (U.S. Patent No. 4,568,771), disclosed a method for stabilizing an *aliphatic higher aldehyde compound* (i.e., a *pheromone*) by admixing with a stabilizer selected from a group consisting of *salicylic acid compounds, benzotriazole compounds* (e.g., *2'-(2'-hydroxy-5'methylphenyl)benzotriazole*), and other compounds (e.g., *di-tert-butyl-p-cresol*) at 0.01 - 10 wt. % of the aldehyde compound. In reversing the rejection, the Board reasoned that the cited art method for stabilizing a *pheromone*,

which happens to be an *aldehyde*, does not teach, motivate, nor suggest the claimed method for stabilizing a *long-chain unsaturated aliphatic compound* (e.g., an ester, a alcohol, a ketone, or a hydrocarbon having at least ten carbon atoms and at least one double bond) using a similar stabilizer composition (i.e., *2'-(2'-hydroxy-5'methylphenyl)benzotriazole* in conjunction with *di-tert-butyl-p-cresol*). The Board's decision in *Ex Parte Yamamoto* reaffirmed the general rule that an obviousness rejection must be based in fact (**i.e., evidence or explanation regarding any teaching, suggestion, or motivation in or among the cited art**), not in the examiner's mere conjecture or speculation that "one of ordinary skill would have found the claimed invention obvious to try."

Even more recently, *In re Zurko*, 59 USPQ2d 1697, 1698 (CAFC), decided on **August 2, 2001**, prior to the final Office Action dated August 29, 2001, in reversing the Board's decision, held:

Finally, the deficiencies of the cited references cannot be remedied by the Board's general conclusions about what is "**basic knowledge**" or "**common sense**" to one of ordinary skill in the art. ... the Board contended that "it is basic knowledge that communication in trusted environments is performed over trusted paths" and ... verifying the trusted command ... is "nothing more than good common sense." We cannot accept these findings by the Board. **This assessment of basic knowledge and common sense was not based on any evidence in the record and, therefore, lacks substantial evidence support. Rather, the Board must point to some concrete evidence in the record in support of these findings.**² To hold otherwise would render the process of appellate review for substantial evidence on the record a meaningless exercise. Accordingly, we cannot accept the Board's unsupported assessment of the prior art. [Emphasis added.]

Thus, the Examiner cannot simply reach conclusions based on her own understanding or experience nor on her assessment of what would be "basic knowledge" or "common sense."

2. Relevant case law applied to the evidence

As discussed, supra, for a cited art reference to render obvious a claimed invention, the combination of claimed elements must be taught, motivated, or suggested by the cited art. The limitations that patentably distinguish Claim 33 from the '718 Patent, even in view of Barna, and even in further view of Sunabe, are as follows:

1. "An AC electrical **power strip** apparatus[;]" and
2. "a plurality of **discrete areas for receiving** a plurality of **solid colored stickers** and a plurality of **color coded indicia disposed proximately** to each outlet of said plurality

of outlets for retrofitting said plurality of outlets[;]”

and, thus, by dependency, Claims 34-36 and 39-40 are also patentably distinct from the ‘718 Patent, even in view of Barna, and even in further view of Sunabe. As discussed, supra, with respect to Issue III, Claim 37 is also patentably distinct from the ‘718 Patent, even in view of Barna, and even in further view of Sunabe, by dependency from Claim 29. The limitations that patentably distinguish Claim 38 from the ‘718 Patent, even in view of Barna, and even in further view of Sunabe are as follows:

1. “an AC electrical **power strip** apparatus having a plurality of **color coded indicia** ...;”
and
2. “a plurality of **discrete, solid colored areas disposed proximately on and surrounding each outlet** of said plurality of outlets for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral devices;”
3. “a plurality of sets of **solid colored stickers** for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus;”
4. “an indicia element on each said solid colored area with **identification information of each said peripheral device** to be plugged to a solid colored area;”
5. “**tagging** each said **peripheral device** with one of said provided **solid colored stickers**;”
6. “**tagging** said **interconnecting electrical cord** with one of said provided **solid colored stickers**;” and
7. “**attaching** the **tagged** interconnecting electrical **cord** to the **corresponding solid colored area** on the AC power strip.”

See Appendix B again for illustrations of the claimed solid color coded plug strip and kit (pp. 57b-57c), the ‘718 Patent power line conditioner (p. 57d), the Barna credit card terminal and bread-bag-style closures (pp. 57f-57g), and the Sunabe circuit breaker box markers (p. 57h).

The Appellant respectfully submits that the Examiner has not sustained her burden of establishing a prima facie case of obviousness. The Appellant respectfully submits that the Examiner’s refusal to fully consider the relevant human factors, discussed, supra, has resulted in the Examiner’s rejections, under 35 U.S.C. §103(a), and that such refusal arises from impermissible hindsight reconstruction, especially with respect to combining Barna and Sunabe.

On point with respect to the nature of the Examiner's rejections, is the case of *In re Gartside and Norton*, recently decided February 15, 2000, where the CAFC applied the well-established rules of *Dembiczak* (50 USPQ2d at 1616), *Graham* (148 USPQ at 467), *Pro-Mold* (37 USPQ2d 1626), and *Rouffet* (47 USPQ2d at 1456): "the ultimate determination ... whether
5 an invention is or is not obvious is a legal conclusion based on underlying factual inquiries including (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) objective evidence of nonobviousness. ... the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is *rigorous application of the requirement for a showing of the*
10 *teaching or motivation to combine prior art references*. ... suggestion may come from ... the teachings of the references themselves, and ... from the nature of the problem to be solved." Evidence of suggestion may be a "trend in the art" towards solving the problem by one of ordinary skill in the proposed manner.

More particularly, *Dembiczak*, in Section II of that opinion, states, "Measuring a claimed
15 invention against the standard established by section 103 requires the oft-difficult but critical step of casting the mind back to the time of the invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom of the field. Close adherence to this methodology is especially important ... where the very ease with which the invention can be understood may prompt one 'to fall victim to the insidious effect of
20 a hindsight syndrome wherein that which only the inventor taught is used against its teacher.' ... 'must specifically identify the reasons one of ordinary skill in the art would have been motivated to select the references and combine them' ... 'objective teaching [leading to the combination]' ... conclusion of obviousness was error 'when it did not elucidate any factual teachings, suggestions or incentives from this prior art that showed the propriety of combination'
25 Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability — the essence of hindsight. ... the showing [of actual evidence] must be clear and particular. ... 'examiner's [mere] conclusory statement ... unaccompanied by evidence or reasoning ... is entirely inadequate to support the rejection.'"

30 Even more specifically on point are the rules of *In re Piasecki* (223 USPQ 785, 787-788) and *In re Lalu* (223 USPQ 1257, 1258) reiterated by *In re Fine* (5 USPQ2d at 1598), decided

January 28, 1988, which states, “Fine says the PTO has not established a prima facie case of obviousness. ... the references applied by the ... Examiner were improperly combined, using hindsight reconstruction, without evidence to support the combination He argues that ... the claims were rejected because the PTO thought it would have been ‘obvious to try’ the claimed invention, an unacceptable basis for rejection. We agree. The PTO has the burden ... to establish a prima facie case of obviousness. It can satisfy this burden only by a showing some objective teaching in the prior art or that the knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.”

Applying the foregoing rules against hindsight reconstruction to the instant case, the Examiner, in this and prior Office Actions, merely makes a blanket conclusion that one of ordinary skill in the art (even “one of less than ordinary skill in the art” in the first Office Action and now, even “person[’]s with no skill in the art” in the final Office Action) would have done what the Appellant did to solve the problem:

It would have been obvious to one of ordinary skill in the art to modify the device taught by ‘718 Pat., to include stickers to attach to either: housing portions, extension cords, or peripheral devices or any combination/subcombination thereof, because consistent with the scope of the ‘718 Pat. invention, color indicia/(stickers) attached throughout the entire system (power strip, extension cord, peripheral device) *enables the various outlets provided to be easily identified and thus insures that each component connected thereto will be connected to an outlet specifically designed for the particular electronic characteristic for the component.* (‘718 Pat., at 4:14-18).

... it is obvious to one of ordinary skill in the art at the time of the invention to modify ‘718 Pat. with the teachings of Barna, because Barna objective was to “provide a cable connecting system that secure a color coded alignment strip [] in a manner that prevents inadvertent removal of the alignment strip.” (Barna, at 3: 19-22).

.... It would have been obvious to one of ordinary skill in the art to modify the teachings of ‘718 Pat., and Barna, with the teachings of Sunabe because as Sunabe discloses a visual pattern system reduces errors in wiring, and also makes tracing easier, and provides codes [which] stand out from conventional wiring diagrams, by “providing two indicia in a single component.” ([*Id.*] at 3:25-26).

However, the Examiner does concede that the ‘718 Patent does not disclose “stickers,” “a set,” “that a sticker is to be attached to a peripheral device,” “that the colored stickers are distinct from other stickers in the set,” “whereby said plurality of colored stickers provide an after-market means integrally provided for facilitating ascertainment of correct power distribution to said peripheral device,” and “an electrical power strip apparatus in kit-form.” The ‘718 Patent merely describes red stripes and rings applied to a power line conditioner. The Examiner

also concedes that Barna does not disclose “*stickers or stickers having indicia on them.*” The Examiner summarily concludes that such was obvious to try. Neither evidence nor reasoning can be found in this Office Action nor even in the previous Office Actions to show teaching, motivation, nor suggestion in favor of combining these cited art references.

5 Further, the Examiner’s reasoning involves the use of the Appellant’s claimed invention as “a template for piecing together” bits from the cited references. The Examiner states that the ‘718 Patent teaches “... a plurality of colored indicia provided for selective attachment to an electrical cord and to a peripheral device utilizing said power strip apparatus, each of said set being selected such that its color matches the colored portion to be utilized for powering
10 peripheral device, each colored indicia of said set of colored indicia being a color distinct from any other colored indicia.” However, the Examiner concedes that the ‘718 Patent does not teach “*stickers,*” “*a set,*” “*that a sticker is to be attached to a peripheral device,*” “*that the colored stickers are distinct from other stickers in the set,*” “*whereby said plurality of colored stickers provide an after-market means integrally provided for facilitating ascertainment of correct*
15 *power distribution to said peripheral device,*” and “*an electrical power strip apparatus in kit-form.*”

The Examiner has stated, in previous Office Actions, that Barna teaches “... a color coded alignment strip (40), ... attached to a device, which corresponds to color coded cables (52a, 52b, and 52c). The color coded alignment strip (which extends entirely around the electrical
20 connection ports) is positioned and aligned in a recessed area (30) such that the colors of the alignment strip match the color of the cables. ... the color of the power cord connection cable (52c) corresponds with the color (44c) of the a section of the color coded alignment strip. (5:16-19). ... color-coding with tags (68a).” In this final Office Action, the Examiner continues to take Official Notice that “the sticker and tag solve the same problem of properly identifying proper
25 connection via a color code system.” Barna merely teaches the use of a hardwired color-coded template applied to a **credit card terminal**, not a flexible color-coding system applied to the instant plug strip apparatus. Further, Barna’s loose “bread-bag-style” tags 68a, 68b, and 68c (**not adhered to the cables and can be easily dislodged as would Barna’s template strip**) are not equivalent to the Appellant’s colored stickers (**very much adhered to the cables, hence the**
30 **term “sticker” as it “sticks”**). Barna only serves to illustrate the problem with visual identification (i.e., both the Barna template and the tags are not well affixed to the apparatus).

Likewise, the Examiner does not state that Barna teaches, motivates, or suggests the Appellant's combined use of integral and retrofitted solid color-coding (all well-affixed on the apparatus) and peripheral device indicia with a **plug strip apparatus**, intermediate cord(s), and peripheral devices.

5 The Examiner states that Sunabe teaches "... a set of wire markers (22), a set of outlet box markers (23) with the markers carried on the carrier with each marker of each set being separably peelable from the carrier. ([*Id.*], at 3:50-53). The markers are numbered sequentially and are color coded red, black, and blue." Sunabe merely teaches *limited color-coding* (i.e., black, red, blue, and white) applied to **wall outlets and circuit breaker boxes**. However, the Examiner
10 does not show that Sunabe teaches, motivates, or suggests the Appellant's combined use of integral and retrofitted solid color-coding and peripheral device indicia with a **plug strip apparatus**, intermediate cord(s), and peripheral devices.

 The Examiner thereby makes another blanket conclusion: "It would have been obvious to one of ordinary skill in the art to modify the teachings of '718 Pat., and Barna, with the
15 teachings of Sunabe because as Sunabe discloses a visual pattern system reduces errors in wiring, and also makes tracing easier, and provides codes [which] stand out from conventional wiring diagrams, by "providing two indicia in a single component." **The Examiner has cited references (i.e., Lee's power line conditioner, Kensington's colored rings, Barna's nonadhesive template and tags, and Sunabe's circuit breaker box wire markers) which do not even resemble the individual features of the claimed invention (i.e., plug strip apparatus, solid-colored portions, stickers that adhere by definition, and an indicia element on each said solid colored area with identification information of each said peripheral device to be plugged to a solid colored area), and then proceeds to combine these individual features where no such combination is taught, motivated, nor suggested by the cited art.**
20 Thus, not only does the Examiner use the Appellant's teachings to "**piece-together**" the cited references, but the Examiner has inadvertently engaged in the practice of basing her rejection on the prohibited "obvious to try" assertion.

30 C. Conclusion as to Issue IV

 Thus, the '718 Patent, even in view of Barna, and even in further view of Sunabe, does

not teach, motivate, nor suggest the Appellant's **combined use of integral nor retrofitted solid color-coding and peripheral device indicia with a plug strip apparatus, intermediate cord(s), and peripheral devices**. Therefore, the Appellant respectfully resubmits that the Examiner has inadvertently fallen victim to the "insidious hindsight syndrome" expressly prohibited by current case law, especially by the very recent decision of *In re Zurko*, **"This assessment of basic knowledge and common sense was not based on any evidence in the record and, therefore, lacks substantial evidence support. Rather, the Board must point to some concrete evidence in the record in support of these findings[,]"** which sets forth the specific criteria for establishing prima facie obviousness. Therefore, the Appellant respectfully requests that the Examiner's grounds for rejection of Claims 33-40 on this basis be REVERSED.

V. Whether Claims 33-40 are unpatentable, under 35 U.S.C. §103(a), over the article by Leonard Wiener, entitled "Smarter Strip," U.S. News & World Report, published May 5, 1997, in view of U.S. Patent No. 5,366,250 to Sunabe.

A. Specific nature of the Examiner's rejection

The Examiner has rejected Claims 33-40 under 35 U.S.C. §103(a), as being unpatentable over the Kensington publication, in view of U.S. Patent No. 5,366,250 to Sunabe, stating, "It would have been obvious ... to combine the teachings of Smarter Strip [Kensington] with the teachings of Sunabe because both solve the same problem utilizing indicia/indicia means for 'end to end' correct attachment of wires to reduce errors or mistakes in connecting or disconnecting of cords." Claims 33-40 have been previously either actually or constructively amended, as discussed supra.

B. Analysis in light of the evidence

Notwithstanding Claims 33-40 being previously amended to better encompass the present invention, the Appellant respectfully traverses the Examiner's grounds for rejection on this basis. Reiterating, for a cited art reference to render obvious a claimed invention, the combination of claimed elements must be taught, motivated, or suggested by the cited art. The limitations that

patentably distinguish Claim 33 from the Kensington publication, even in view of Sunabe, are as follows:

1. "An AC electrical **power strip** apparatus[;]" and
2. "a plurality of **discrete areas for receiving** a plurality of **solid colored stickers** and a plurality of **color coded indicia disposed proximately to** each outlet of said plurality of outlets for retrofitting said plurality of outlets[;]"

and, thus, by dependency, Claims 34-36 and 39-40 are also patentably distinct from the '718 Patent. As discussed, supra, with respect to Issue III, Claim 37 is also patentably distinct from the Kensington publication, even in view of Sunabe, by dependency from Claim 29. The limitations that patentably distinguish Claim 38 from the Kensington publication, even in view of Sunabe, are as follows:

1. "an AC electrical **power strip** apparatus having a plurality of **color coded indicia ...**;" and
2. "a plurality of **discrete, solid colored areas disposed proximately on and surrounding each outlet** of said plurality of outlets for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral devices;"
3. "a plurality of sets of **solid colored stickers** for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus;"
4. "an indicia element on each said solid colored area with **identification information of each said peripheral device** to be plugged to a solid colored area;"
5. "**tagging** each said **peripheral device with** one of said provided **solid colored stickers**;"
6. "**tagging** said **interconnecting electrical cord with** one of said provided **solid colored stickers**;" and
7. "**attaching the tagged** interconnecting electrical cord to the **corresponding solid colored area** on the AC power strip."

See again Appendix B for an illustration of the claimed solid color coded plug strip and kit (pp. 57b-57c) and a photograph of the Kensington colored-ring plug strip (pp. 57e and 57k).

Although Kensington teaches *thin colored rings disposed at a notable radius away from the outlets*, the Examiner has not demonstrated that the Kensington disclosure motivates or

suggests the use of *solid color-coding* on a **plug strip**. The Examiner merely used the Appellant's disclosure to connect the cited references without any objective indicia of motivation nor suggestion to combine those references to blanketly conclude that the present invention was "obvious to try," in the manner discussed supra. Further, neither the problem of optimizing visual identification nor any trend toward a solution along the line of the Appellant's invention is alluded in the cited art.

As discussed supra, Sunabe merely teaches *limited color-coding* (i.e., black, red, blue, and white) applied to **wall outlets and circuit breaker boxes**. Reiterating, the Examiner has not shown that Sunabe teaches, motivates, or suggests the Appellant's combined use of integral and retrofitted solid color-coding and peripheral device indicia with a **plug strip apparatus**, intermediate cord(s), and peripheral devices.

C. Conclusion as to Issue V

Thus, Kensington, even in view of Sunabe, does not teach, motivate, nor suggest the Appellant's combined use of integral nor retrofitted solid color-coding and peripheral device indicia with a plug strip apparatus, intermediate cord(s), and peripheral devices. Therefore, the Appellant respectfully submits that the Examiner has again inadvertently fallen victim to the "insidious hindsight syndrome" arising from a misunderstanding of the current case law which sets forth the specific criteria for establishing prima facie obviousness. Therefore, the Appellant respectfully requests that the Examiner's grounds for rejection on this basis be REVERSED as to Claims 33-40.

VI. Whether rejection of Claims 29-40 under 35 U.S.C. §103(a) is improper under 37 C.F.R. §1.104(d)(2).

A. Specific nature of the Examiner's Official Notice with respect to U.S. Patent No. 5,775,935 to Barna

The Examiner continues to exercise Official Notice in order to combine elements where no teaching, motivation, nor suggestion for such combination exists in the cited art. Reiterating,

the Examiner has again taken Official Notice that “the sticker and tag solve the same problem of properly identifying proper connection via a color code system.”

B. Analysis in light of the evidence

5

Notwithstanding Claims 29-40 having been either actually or constructively previously amended, as discussed supra, the Appellant hereby respectfully traverses the Examiner’s grounds for rejection on this basis. However, Barna merely teaches the use of a hardwired color-coded template applied to a **credit card terminal**, not the instant flexible color-coding system applied to the instant **plug strip apparatus**. *Reiterating, Barna’s loose “bread-bag-style” tags 68a, 68b, and 68c (not adhered to the cables) in combination with a credit card terminal are not the equivalent of the Appellant’s colored stickers which are very much adhered to the cables in combination with a plug strip apparatus.* The Examiner does not show that Barna teaches motivates, or suggests the Appellant’s synergistically combined use of integral and retrofitted solid color-coding and peripheral device indicia with a plug strip apparatus, intermediate cord(s), and peripheral devices. In paragraph 25 of the first final Office Action dated August 28, 2001, with reference to Barna’s credit card terminal, the Examiner restated, “Official notice is taken that the sticker and tag solve the same problem of properly identifying proper connection via a color code system. Hence, both function to ensure easy visual identification.”

20 The Examiner has also attempted to bolster her position by **citing, but not relying on**, Japanese Patent No. JP408265937A (English Abstract) and stating (November 5, 2001, second final Office Action): “‘These switches, connector and receptacles are differentiated in color and shape for different uses. Electric apparatus are previously built in, adjusted and tested at a **furniture factory**. Consequently the schedule of electric wiring work is shortened in the building work and the wiring work can be carried out by a small number of unskilled workers.’ Essentially, ‘unskilled,’ (less than that of ordinary skill, and no skill) people understand color coding and implicitly in the method of color coding is keeping (matching) like colors.” [Emphasis added.]

30 However, the Examiner’s reasoning here is flawed: the issue is not whether the invention is easy for those of less than ordinary skill **to use**, but rather whether one of ordinary skill **would have conceived** of the invention. Essentially, the **very heart of all human factors inventions**

is to facilitate their use by a user, especially by a user of less than ordinary skill. That a person of less than ordinary skill would be able *to use* a human factors invention *does not necessitate* the conclusion that a person of less than ordinary skill would then be able *to also conceive and reduce to practice* that very same invention. For instance, a worker, who understands how to sit-on and adjust his *ergonomic chair*, does *not necessarily have the skills* to engineer such a chair *to provide the ergonomics*. As such, Japanese Patent No. JP408265937A (issued as a human factors invention) merely begs the question whether combining (a) a **color coding** system with (b) specialized **furniture factory** testing equipment is obvious or not. Clearly, the Japanese Patent Office's position, appreciating the human factors aspects, as applied to specialized furniture factory testing equipment, was that **the invention was nonobvious**. The Examiner has not been able to cite any reference which teaches, motivates, or suggests the **presently claimed** (a) **solid color coding** as applied to (b) a **plug strip** apparatus. *If the Examiner's reasoning is taken to its conclusion, no human factor invention would ever be patented.* The Appellants respectfully submit that the Examiner has allowed the present invention's simplifying advantages for the user to prejudice her 35 U.S.C. §103(a) analysis.

C. Conclusion as to Issue VI

Consequently, the Appellant respectfully submits that rejection of Claims 29-40 is improper and that Official Notice has been improperly taken under 37 C.F.R. §1.104(d)(2), which states:

When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the *data shall be as specific as possible*, and the *reference must be supported*, when called for by the Appellant, by *the affidavit of such employee*, and such affidavit shall be subject to contradiction or explanation by the affidavits of the Appellant and other persons.

Therefore, the Appellant has requested, in the June 26, 2001, Response, that an affidavit, under 37 C.F.R. §1.104(d)(2), be made by the Examiner and supplied to the Appellant as to *facts and/or data* to support her position that *a solid color coded power strip apparatus* or *a solid color-coding kit for a power strip apparatus* would be unpatentable over Barna under 35 U.S.C. §103(a). However, the Examiner refused to comply with the requirements under 37 C.F.R. §1.104(d)(2). Alternatively, even if Official Notice could have been properly taken in this circumstance, the Official Notice would be merely of one feature (only color-coded stickers) of

the claimed invention, **not to the claimed combination as a whole** (i.e., color-coded stickers in combination with a plug strip apparatus), thereby rendering the rejection improper under 35 U.S.C. §103(a).

VII. Whether rejection of Claims 29-40, under 35 U.S.C. §103(a), is improper, under 35 U.S.C. §103(c), with respect to U.S. Patent No. 5,589,718 to Lee, the Kensington publication, U.S. Patent No. 5,775,935 to Barna, and U.S. Patent No. 5,366,250 to Sunabe.

A. Specific nature of the Examiner's rejection

The nature of these rejections is discussed, *supra*. The Appellant hereby further respectfully traverses the Examiner's grounds for rejection on the basis that the references have been improperly combined under the provisions of 35 U.S.C. §103(c), effective **November 29, 1999**, which states:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In addition, MPEP §706.02(1)(2) states, in relevant part:

... entirely or wholly owned by the same person, persons, or organization at the time the claimed invention was made. If the person, persons, or organization owned less than 100 percent of the subject matter which would otherwise be prior art to the claimed invention, or less than 100 percent of the claimed invention, then common ownership would not exist. Common ownership requires that the person, persons, or organization own 100 percent of the subject matter and 100 percent of the claimed invention.

The requirement for common ownership at the time the claimed invention was made is intended to preclude obtaining ownership of subject matter after the claimed invention was made in order to disqualify that subject matter as prior art against the claimed invention.

... Actual ownership of the subject matter and the claimed invention by the same individual or organization or a legal obligation to assign both the subject matter and the claimed invention to the same individual or organization must be in existence at the time the claimed invention was made in order for the subject matter to be disqualified as prior art.

... Actual ownership of the subject matter and the claimed invention by the same individual or organization or a legal obligation to assign both the subject matter and the claimed invention to the same individual or organization must be in existence at the time the claimed invention was made in order for the subject matter to be disqualified as prior art. ...

B. Analysis in light of the evidence

The Appellant appreciates the Examiner's concession as to her incorrect calculation of dates and her agreement with the Appellant in the first final Office Action (para. 30) regarding the correct calculation of the reduction to practice and due diligence. In sum, the Examiner and the Appellant agree that *conception* has occurred *prior to* the **July 28, 1994, drawing date**, (Exhibit A) that the **July 28, 1994, drawing date** falls within the time period (continuum) of *actual reduction to practice*, and that *constructive reduction to practice* occurred by virtue of filing a **provisional application** on the date of **January 2, 1998**. In light of the Examiner's agreement in paragraph 30 of the first final Office Action with the dates presented by the Appellant, the Appellant respectfully submits that paragraphs 2-4 and 29 of the first final Office Action are no longer relevant to the instant case.

With respect to paragraph 34 of the first final Office Action, the Examiner has asked: "Is the Appellant stating that both the '718 Patent and Kensington disclosure should *at best* be a nonstatutory double patent rejection as opposed to a 35 USC 103 rejection because they were both commonly owned at the time of the present invention." More troublesome, is that the Examiner further states (second final Office Action, para. 3) that "... **matters of obligation of assignment are not issues with which the Patent Office considers when determining patentability.**" [Emphasis added.] There appears to be continuing confusion on the Examiner's part as to the relevance of the **common ownership issue**. The Appellant respectfully traverses the Examiner's grounds for rejection on this basis and respectfully submits that **matters of obligation of assignment are *most certainly* issues with which the Patent Office should consider when determining patentability under 35 U.S.C. §103(c).** As the Examiner has **evaded the §103(c) issue** in the second final Office Action, the Appellant wishes to **restate** for the record that the Appellant has raised the **issue of common ownership for the purposes of 35 U.S.C. §103(c) analysis only**, and does **not**, in any way, state "that both the '718 Patent and Kensington disclosure should *at best* be a nonstatutory double patent rejection as opposed to a 35 USC 103 rejection."

Applying **35 U.S.C. §103(c)** to the instant case, the subject matter of **the '718 Patent to Lee was owned by Monster Cable International, Ltd., a wholly-owned subsidiary of Monster Cable Products, Inc., and the claimed invention (the provisional application filed January 2, 1998) was subject to an obligation of assignment to Monster Cable Products, Inc. at the time the present invention was made** (See corporate documents contained in

herewith submitted Exhibit D). Reiterating, **Monster's proprietary drawing of July 28, 1994**, evidencing actual reduction to practice, also **antedates** the '718 Patent's issue date of **December 31, 1996**, by **over two (2) years**; therefore, the Appellant submits that the '718 Patent is **also invalid as a 35 U.S.C. §102(b) reference**. Thus, **the '718 Patent should be disqualified under 35 U.S.C. §103(c)**.

Further, assignment of an application claiming the benefits of a provisional application is provided by MPEP §306.01 which states, in relevant part:

If an application which claims the earlier filing date of a provisional application under 35 U.S.C. 119(e) includes only subject matter which formed a part of the provisional application, **an assignment recorded against the provisional application will be effective in the later application**, If an application claiming the earlier filing date of a provisional application includes subject matter that is not common with subject matter of the provisional application, new assignment papers must be submitted in the later application, similar to the practice with respect to continuations-in-part filed under 35 U.S.C. 120.

Here, the obligation of assignment of **January 2, 1998**, with respect to the present invention did, in fact, come into fruition and was duly assigned on **June 3, 1998**. The instant continuation application, filed **December 12, 2000**, claims priority from the nonprovisional application, filed **December 28, 1998**, which contains the same specification and drawings as appearing in the provisional application, filed **January 2, 1998**. See Exhibit C for a photocopy of the Assignment documents, signed by the Appellant. Thus, ***the assignment recorded against the provisional application is effective in both the nonprovisional application filed December 28, 1998 and its continuation application thereof*** (i.e., the present application). Further, as the instant continuation application was filed **December 12, 2000**, after the effective date of **November 29, 1999**, 35 U.S.C. §103(c) could and should apply.

In addition, ***the subject matter of the Kensington disclosure, which was commonly under obligation of assignment to Monster Cable Products, Inc., at the time the present invention was made, had been misappropriated to Kensington Microware, Ltd. by a former employee and worker-for-hire, Engineer David Pitcher***. See again Exhibit C for a copy of David Pitcher's Agreement to assign the subject matter of any of his inventions developed during the course of his employment to Monster Cable Products, Inc.. Again, **Monster's July 28, 1994, proprietary drawing**, evidencing actual reduction to practice, also **antedates Kensington's September 1997 publication** (See Exhibit A) by over three years; therefore, the Appellant submits that **Kensington is not a valid reference under 35 U.S.C. §102(b)**. Thus, the

Kensington reference should also be disqualified under 35 U.S.C. §103(c).

C. Conclusion as to Issue VII

5 In full support, the Rule 1.131 and 1.132 Declarations of Noel Lee have already stated these time line facts explicitly. Thus, the Appellant respectfully resubmits that **both the '718 Patent to Lee and the Kensington disclosure are invalid as 35 U.S.C. §102(b) references and have been improperly combined** with U.S. Patent No. 5,775,935 to Barna and U.S. Patent No. 5,366,250 to Sunabe, and that **the '718 Patent to Lee as well as the Kensington disclosure,**
10 **therefore, should be disqualified as prior art under 35 U.S.C. §103(c).** Therefore, the Appellant respectfully requests that all of the Examiner's grounds for rejection of Claims 29-40, under 35 U.S.C. §103(a), on the foregoing bases be REVERSED, under 35 U.S.C. §103(c).

The Claims Do Not Stand Nor Fall Together:

15 The Appellant respectfully submits that the claims either stand or fall individually. With regard to independent Claim 29, Claims 30-32 and 37 are dependent therefrom and differ in cumulative language as follows:

Claim 29. An AC electrical power strip apparatus having a plurality of color coded indicia for a plurality of electrical outlets thereon for associating a plurality of peripheral devices coupled thereto, said apparatus comprising:

an input power cord member;

5 an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets; and

a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, said housing also having a plurality of discrete, solid colored areas, each said discrete solid colored area being disposed
10 on and surrounding each outlet of said plurality of outlets for associating said each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each peripheral device of said plurality

of peripheral devices.

Claim 30. further comprising:

a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to each peripheral device of said plurality of peripheral devices utilizing said power strip apparatus,
5 each sticker of said set being selected such that its color matches the solid colored area to be utilized for powering said each peripheral device,
each said set of solid colored stickers being a color distinct from any other said set of solid colored stickers.

Claim 31. further comprising:

a plurality of solid colored electrical extension cords for selective attachment to said power strip apparatus,
each colored electrical extension cord of said plurality of solid colored electrical
5 extension cords being a color distinct from any other solid colored electrical extension cord in said plurality of solid colored electrical extension cords,
each solid colored electrical extension cord being selected such that its color matches the color of the solid colored area being utilized.

Claim 32. further comprising:

a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to each peripheral device of said plurality of peripheral devices utilizing said solid colored electrical extension cord,
5 each solid colored sticker of said set being selected such that its color matches the color of the solid colored area and the color of a solid colored electrical extension cord being utilized,
each said set of solid colored stickers being a color distinct from any other said set of solid colored stickers.

Claim 37. further comprising a kit, the kit comprising:
a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus.

With regard to independent Claim 33, Claims 34-36 and 39-40 are dependent therefrom and differ in cumulative language as follows:

Claim 33. An AC electrical power strip apparatus having a plurality of electrical outlets, said apparatus comprising:

an input power cord member;

an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets; and

a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, said housing also having a plurality of discrete areas for receiving a plurality of solid colored stickers and a plurality of color coded indicia disposed proximately to each outlet of said plurality of outlets for retrofitting said plurality of outlets, said plurality of solid colored stickers and said plurality of color coded indicia for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral devices.

Claim 34. further comprising:

a plurality of sets of a plurality of solid colored stickers for selective attachment to an interconnecting electrical cord and to each said peripheral device utilizing said power strip apparatus,

each solid colored sticker of said plurality of solid colored stickers of each said set being selected such that its color matches the color of the solid colored sticker provided on the area,

each said set of solid colored stickers being a color distinct from any other said set of solid colored stickers.

Claim 35. further comprising:

a plurality of solid colored electrical extension cords for selective attachment to said power strip apparatus,

5 each solid colored electrical extension cord of said plurality of solid colored electrical extension cords being a color distinct from any other solid colored electrical extension cord in said plurality of solid colored electrical extension cords,

each solid colored electrical extension cord being selected such that its color matches the color of the solid colored sticker provided on the area being utilized.

Claim 36. further comprising:

a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to each said peripheral device utilizing said solid colored electrical extension cord,

5 each solid colored sticker of said set being selected such that its color matches the color of the solid colored sticker and the color of the solid colored electrical extension cord being utilized,

each said set of solid colored stickers being a color distinct from any other said set of solid colored stickers.

Claim 39. further comprising a kit, the kit comprising:

a plurality of sets of at least three like solid colored stickers, one of said set for selective attachment to said each area, to an interconnecting electrical cord, and to a peripheral device utilizing said power strip apparatus.

Claim 40. further comprising:

a plurality of solid colored electrical extension cords for selective attachment to said power strip apparatus,

5 each solid colored electrical extension cord being selected such that its color matches the color of the area being utilized,

each solid colored electrical extension cord of said plurality of solid colored electrical extension cords being a color distinct from any other solid colored electrical extension cord in said plurality of solid colored electrical extension cords.

With regard to independent method Claim 38, the illustrative language reads as follows:

- Claim 38. A method of providing AC power to a plurality of peripheral devices by color-coding, said method comprising:
- (a) providing an AC electrical power strip apparatus having a plurality of color coded indicia for a plurality of electrical outlets thereon for associating a plurality of peripheral devices coupled thereto, said apparatus comprising:
- 5 an input power cord member,
an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets, and
a housing member for housing said distribution main and said outlets, and for
10 securing said power cord member to said main, said housing also having a plurality of discrete, solid colored areas disposed on and surrounding each outlet of said plurality of outlets for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral
15 devices;
- (b) providing a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus;
- (c) providing an indicia element on each said solid colored area with identification
20 information of each said peripheral device to be plugged to a solid colored area;
- (d) tagging each said peripheral device with one of said provided solid colored stickers;
- (e) tagging said interconnecting electrical cord with one of said provided solid colored stickers; and

25 (f) attaching the tagged interconnecting electrical cord to the corresponding solid colored area on the AC power strip.

Thus, the Appellant likewise respectfully submits that inventive features may be individually characterized; and that, therefore, the foregoing claims should not stand nor fall together. Only a truly anticipatory reference in every sense would be able to render all of the foregoing claims unpatentable.

CONCLUSION

Accordingly, Claims 29-40, as amended in the June 26, 2001, Response, better encompass the full scope and breadth of the present invention, notwithstanding the Appellant's
5 belief that the claims would have been allowable as originally filed. The Appellant respectfully reasserts that no claims have been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Therefore, reconsideration of the present application in light of the foregoing amendment and these remarks is respectfully requested. Pending Claims 29-40 are believed to be fully supported by the specification, and are
10 believed to be in allowable form, or alternatively, in better form for this appeal. In view of the foregoing arguments, the Appellant respectfully requests that the rejection of Claims 29-40 be REVERSED.

Respectfully submitted,



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APPENDIX A
(37 C.F.R. §1.192(c)(9))

Claims:

29. An AC electrical power strip apparatus having a plurality of color coded indicia for a plurality of electrical outlets thereon for associating a plurality of peripheral devices coupled thereto, said apparatus comprising:

an input power cord member;

an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets; and

a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, said housing also having a plurality of discrete, solid colored areas, each said discrete solid colored area being disposed on and surrounding each outlet of said plurality of outlets for associating said each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each peripheral device of said plurality of peripheral devices.

30. An AC electrical power strip apparatus, as recited in Claim 29, further comprising: a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to each peripheral device of said plurality of peripheral devices utilizing said power strip apparatus,

each sticker of said set being selected such that its color matches the solid colored area to be utilized for powering said each peripheral device, each said set of solid colored stickers being a color distinct from any other said set of solid colored stickers.

31. An AC electrical power strip apparatus, as recited in Claim 29, further comprising:
a plurality of solid colored electrical extension cords for selective attachment to said
power strip apparatus,
each colored electrical extension cord of said plurality of solid colored electrical
extension cords being a color distinct from any other solid colored
electrical extension cord in said plurality of solid colored electrical
extension cords,
each solid colored electrical extension cord being selected such that its color
matches the color of the solid colored area being utilized.
32. An AC electrical power strip apparatus, as recited in Claim 31, further comprising:
a plurality of sets of solid colored stickers for selective attachment to an interconnecting
electrical cord and to each peripheral device of said plurality of peripheral devices
utilizing said solid colored electrical extension cord,
each solid colored sticker of said set being selected such that its color matches the
color of the solid colored area and the color of a solid colored electrical
extension cord being utilized,
each said set of solid colored stickers being a color distinct from any other said
set of solid colored stickers.
33. An AC electrical power strip apparatus having a plurality of electrical outlets, said
apparatus comprising:
an input power cord member;
an electrical distribution main electrically coupled to said input power cord member and
to said plurality of electrical outlets; and
a housing member for housing said distribution main and said outlets, and for securing
said power cord member to said main, said housing also having a plurality of
discrete areas for receiving a plurality of solid colored stickers and a plurality of
color coded indicia disposed proximately to each outlet of said plurality of outlets
for retrofitting said plurality of outlets, said plurality of solid colored stickers and
said plurality of color coded indicia for associating each outlet of said plurality
of outlets with a particular color, and for associating each outlet of said plurality
of outlets with each device of said plurality of peripheral devices.

34. An AC electrical power strip apparatus, as recited in Claim 33, further comprising:
a plurality of sets of a plurality of solid colored stickers for selective attachment to an
interconnecting electrical cord and to each said peripheral device utilizing said
power strip apparatus,
5 each solid colored sticker of said plurality of solid colored stickers of each said
set being selected such that its color matches the color of the solid colored
sticker provided on the area,
each said set of solid colored stickers being a color distinct from any other said
set of solid colored stickers.

35. An AC electrical power strip apparatus, as recited in Claim 33, further comprising:
a plurality of solid colored electrical extension cords for selective attachment to said
power strip apparatus,
each solid colored electrical extension cord of said plurality of solid colored
5 electrical extension cords being a color distinct from any other solid
colored electrical extension cord in said plurality of solid colored
electrical extension cords,
each solid colored electrical extension cord being selected such that its color
matches the color of the solid colored sticker provided on the area being
10 utilized.

36. An AC electrical power strip apparatus, as recited in Claim 35, further comprising:
a plurality of sets of solid colored stickers for selective attachment to an interconnecting
electrical cord and to each said peripheral device utilizing said solid colored
electrical extension cord,
5 each solid colored sticker of said set being selected such that its color matches the
color of the solid colored sticker and the color of the solid colored
electrical extension cord being utilized,
each said set of solid colored stickers being a color distinct from any other said
set of solid colored stickers.

37. An AC electrical power strip apparatus, as recited in Claim 29, further comprising a kit, the kit comprising:

a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus.

38. A method of providing AC power to a plurality of peripheral devices by color-coding, said method comprising:

(a) providing an AC electrical power strip apparatus having a plurality of color coded indicia for a plurality of electrical outlets thereon for associating a plurality of peripheral devices coupled thereto, said apparatus comprising:

an input power cord member,

an electrical distribution main electrically coupled to said input power cord member and to said plurality of electrical outlets, and

a housing member for housing said distribution main and said outlets, and for securing said power cord member to said main, said housing also having a plurality of discrete, solid colored areas disposed on and surrounding each outlet of said plurality of outlets for associating each outlet of said plurality of outlets with a particular color, and for associating each outlet of said plurality of outlets with each device of said plurality of peripheral devices;

(b) providing a plurality of sets of solid colored stickers for selective attachment to an interconnecting electrical cord and to said each peripheral device utilizing said power strip apparatus;

(c) providing an indicia element on each said solid colored area with identification information of each said peripheral device to be plugged to a solid colored area;

(d) tagging each said peripheral device with one of said provided solid colored stickers;

(e) tagging said interconnecting electrical cord with one of said provided solid colored stickers; and

- 25 (f) attaching the tagged interconnecting electrical cord to the corresponding solid colored area on the AC power strip.
39. An AC electrical power strip apparatus, as recited in Claim 33, further comprising a kit, the kit comprising:
a plurality of sets of at least three like solid colored stickers, one of said set for selective attachment to said each area, to an interconnecting electrical cord, and to a
5 peripheral device utilizing said power strip apparatus.
40. An apparatus, as recited in Claim 39, further comprising:
a plurality of solid colored electrical extension cords for selective attachment to said power strip apparatus,
each solid colored electrical extension cord being selected such that its color
5 matches the color of the area being utilized,
each solid colored electrical extension cord of said plurality of solid colored electrical extension cords being a color distinct from any other solid colored electrical extension cord in said plurality of solid colored electrical extension cords.

APPENDIX B: COMPARATIVE DRAWINGS
(37 C.F.R. §1.192(c)(6))

1. **Present Invention (3 pages)**
2. **'718 Patent to Lee (1 page)**
3. **LaMont Ridgell's Kensington Publication (1 page)**
4. **Barna (1 page)**
5. **Sunabe (1 page)**
6. **Prior Art Plain Plug Strip Problems**
7. **Present Invention Solid Color Coded Plug Strip Solutions**
8. **Twice's Kensington Publication (1 page)**

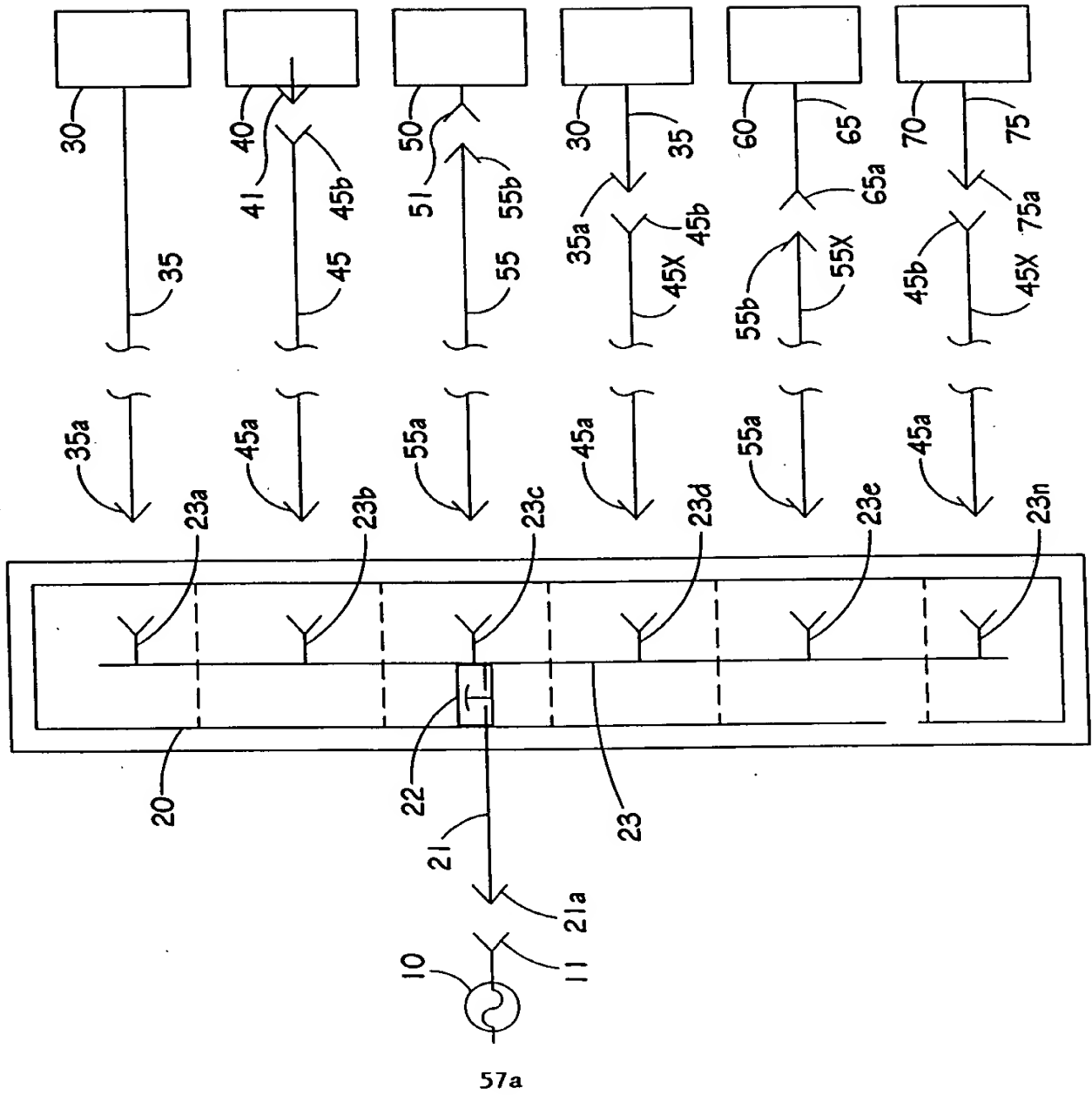


Figure 1
(Prior Art)

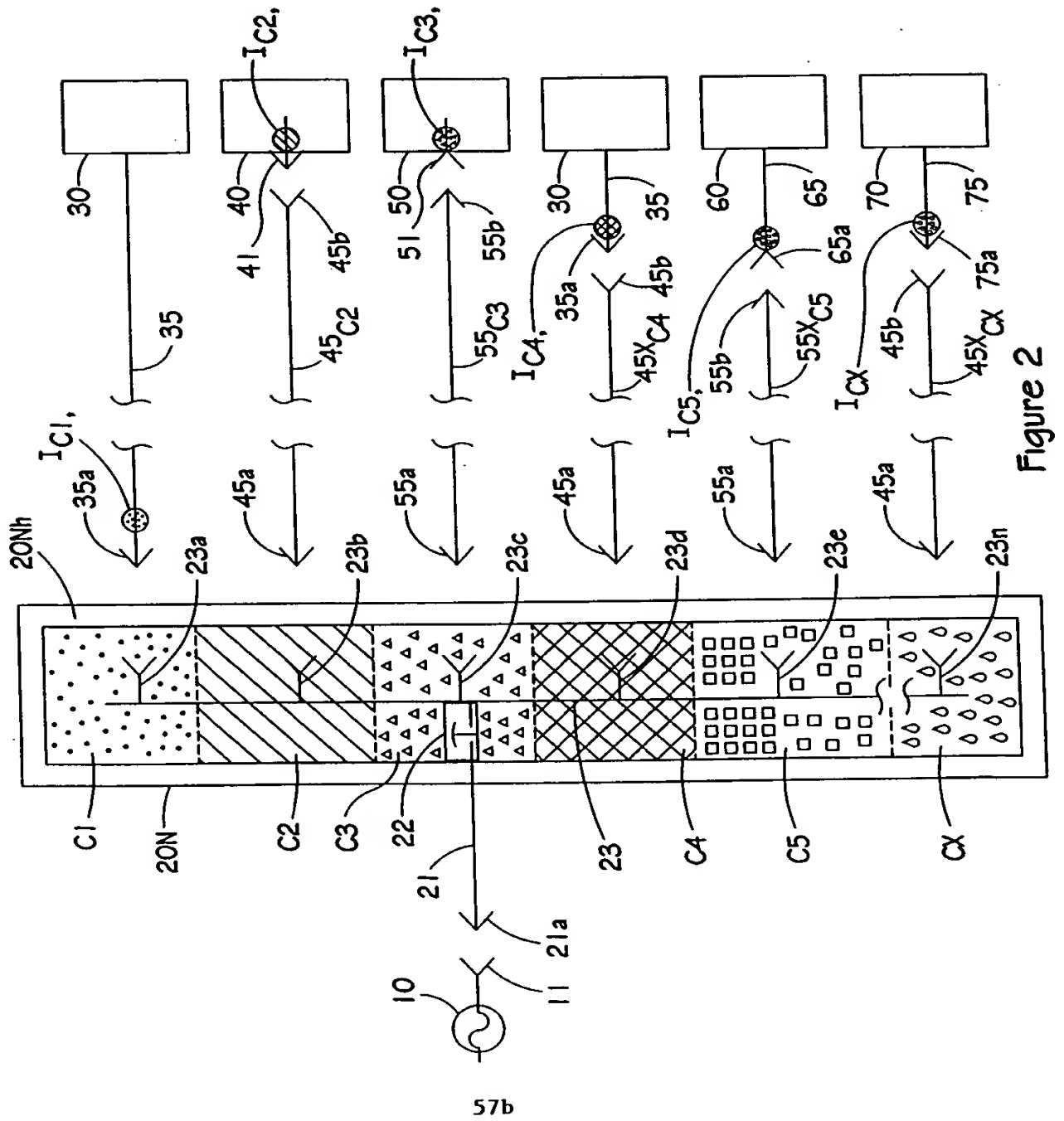


Figure 2

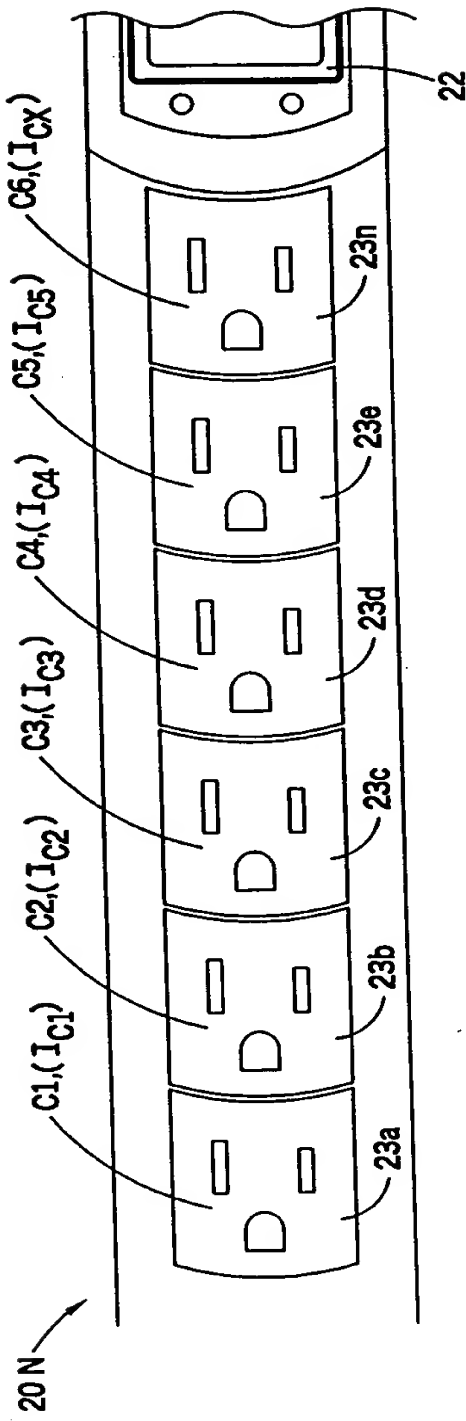


Figure 3



US005589718A

United States Patent [19]

Lee

[11] **Patent Number:** 5,589,718[45] **Date of Patent:** Dec. 31, 1996[54] **POWER LINE CONDITIONER**

5,448,443 9/1995 Muelleman 361/111

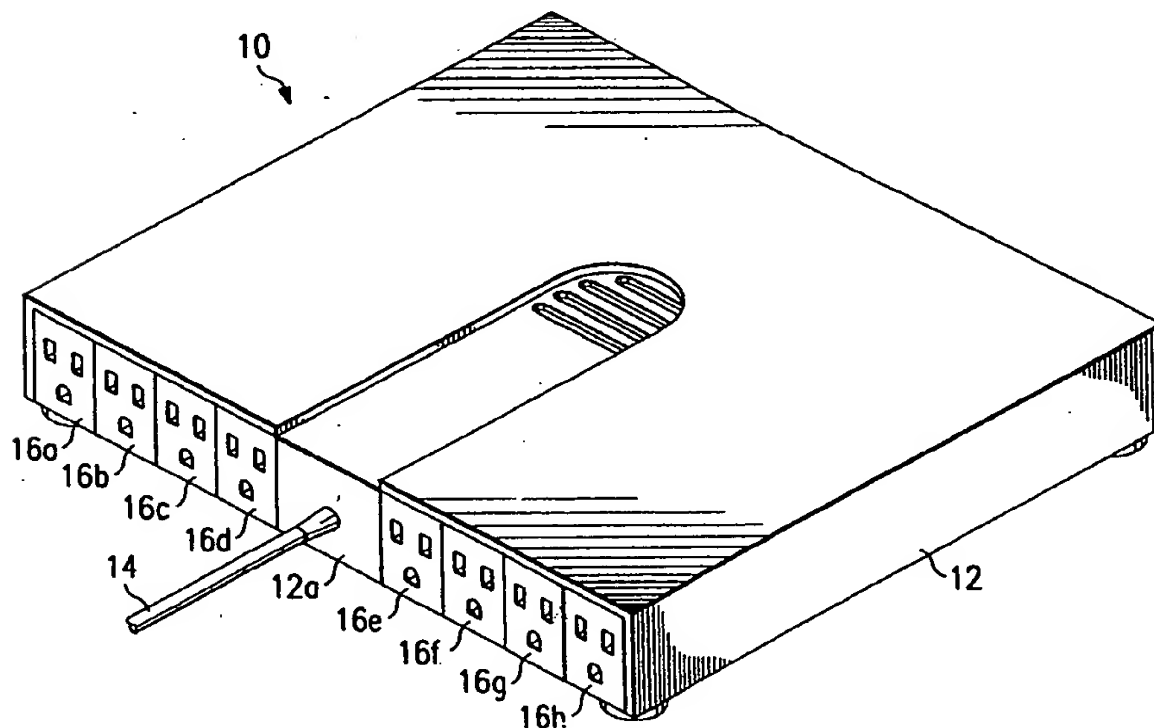
[75] **Inventor:** Noel Lee, Daly City, Calif.*Primary Examiner*—William M. Shoop, Jr.*Assistant Examiner*—Kim Lockett[73] **Assignee:** Monster Cable International, Ltd.,
Hamilton, Bermuda*Attorney, Agent, or Firm*—Haynes and Boone, L.L.P.[21] **Appl. No.:** 422,442[22] **Filed:** Apr. 14, 1995[51] **Int. Cl.⁶** H02J 1/00[52] **U.S. Cl.** 307/72; 307/85; 307/86;
307/87; 307/18; 307/29; 307/38; 307/39;
439/92; 439/105; 439/620; 439/535[58] **Field of Search** 307/85, 86, 87;
307/18, 29, 38, 39; 439/92, 105, 620, 535[56] **References Cited**

U.S. PATENT DOCUMENTS

5,115,368 5/1992 Smith 361/56

[57] **ABSTRACT**

A power line conditioner in which a plurality of outlets are mounted on a housing for receiving AC plugs from a plurality of electrical components. The housing is connected to a source of AC power which is distributed to each of the outlets, with the AC power associated with the outlets being processed to improve the performance of the components connected to the outlets. The AC power processing at one or more of the outlets differs from the processing at one or more of the other outlets so that the outlets can accommodate components with different electrical characteristics.

3 Claims, 1 Drawing Sheet

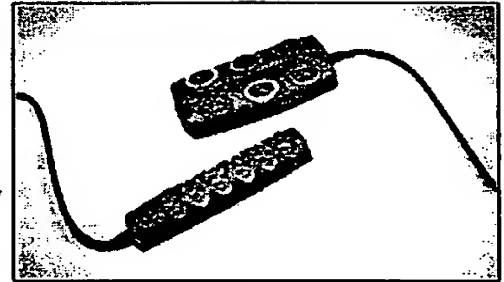


Reviews

MacUser / September 1997

Kensington SmartSockets Strip Model and Adapter Model

A sexy surge protector may seem an impossibility, but two new Kensington SmartSockets come close to making it a reality. The Strip Model is merely a straightforward power strip -- albeit an exceptionally well-designed one; the Adapter Model, on the other hand, can protect against nearly three times the surge energy and has extrawide outlet spacing that accommodates up to six AC adapters. Each model also protects one telephone, modem, or fax-machine line. The flashy design is not just for looks, either: Included are six pairs of labels that match the colored rings around each socket. Put one label on each peripheral and a matching one on its power cord, and you'll never unplug the wrong device again. / LaMont Ridgell



List all MacUser reviews of [Surge Protectors](#).

Kensington SmartSockets Strip Model and Adapter Model, \$19 and \$50 (estimated street). Company: [Kensington](#), San Mateo, CA; 800-535-4242 or 415-572-2700.

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US005775935A

United States Patent [19]

Barna

[11] Patent Number: 5,775,935
[45] Date of Patent: Jul. 7, 1998

[54] SYSTEM AND METHOD FOR CONNECTING
COLOR CODED CABLES TO A DEVICE

[75] Inventor: Joseph A. Barna, Marietta, Ga.

[73] Assignee: Computer Data Exchange, Inc.,
Marietta, Ga.

[21] Appl. No.: 769,456

[22] Filed: Dec. 18, 1996

[51] Int. Cl.⁶ H01R 9/22

[52] U.S. Cl. 439/488; 439/491; 174/112

[58] Field of Search 439/488-491;
174/112; 40/316

[56] References Cited

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5,613,874 3/1997 Orlando et al. 439/491

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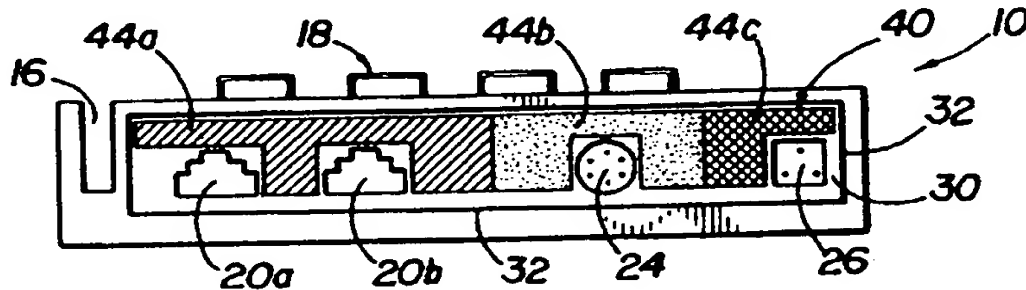
6338364 12/1994 Japan .

Primary Examiner—Hien Vu

[57] ABSTRACT

The present invention is a color coded system for associating each of a plurality of individual electrical connection ports of a transactional terminal with a particular cable designated for connection with a specific one of the ports. The system includes a device that has a plurality of electrical connection ports for receiving cables. The device has a recessed portion extending around the electrical connection ports. The recessed portion has a rim defining the boundary of the recess. The system also includes a color coded alignment strip that has a surface of colors arranged in ordered positions on the strip. The colors of the surface correspond to color coded cables. The color coded alignment strip is positioned and is aligned in the recess in a position that aligns the colors with the electrical connection ports that are to receive the color coded cables of the corresponding colors aligned with the electrical connection ports. The color coded alignment strip fits in the recess such that the surface of the alignment strip is positioned at or below the same level as the rim of the recess.

10 Claims, 2 Drawing Sheets



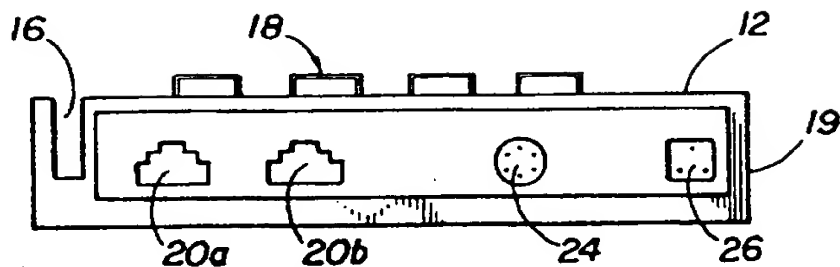


FIG 1

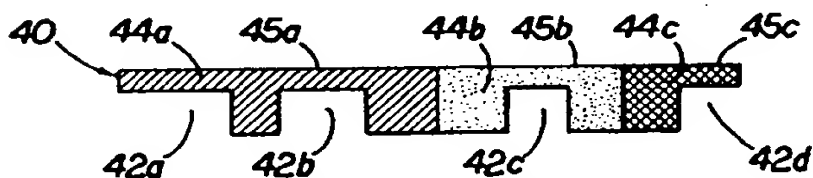


FIG 2A

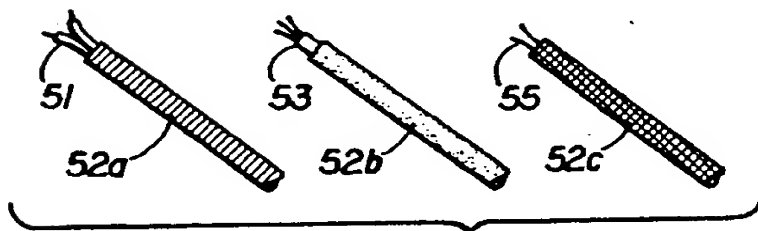


FIG 2B

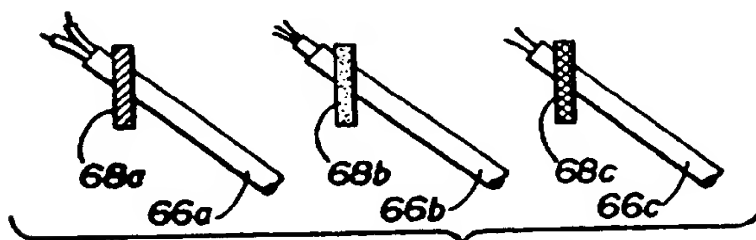


FIG 2C

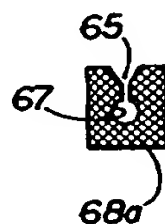


FIG 2D

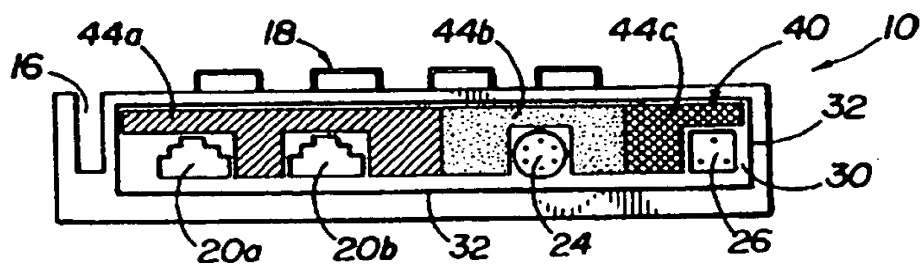


FIG 3

United States Patent [19]

Sunabe



US005366250A

[11] Patent Number: 5,366,250

[45] Date of Patent: N v. 22, 1994

[54] WIRE AND OUTLET BOX MARKERS

[76] Inventor: Thomas S. Sunabe, 1100 South Lincoln Ave., Monterey Park, Calif. 91754

[21] Appl. No.: 959,638

[22] Filed: Oct. 13, 1992

[51] Int. Cl.⁵ B42D 15/00

[52] U.S. Cl. 283/81; 283/67; 283/114; 283/70; 283/74

[58] Field of Search 283/81, 67, 114, 74, 283/70, 75, 81, 114

[56] References Cited

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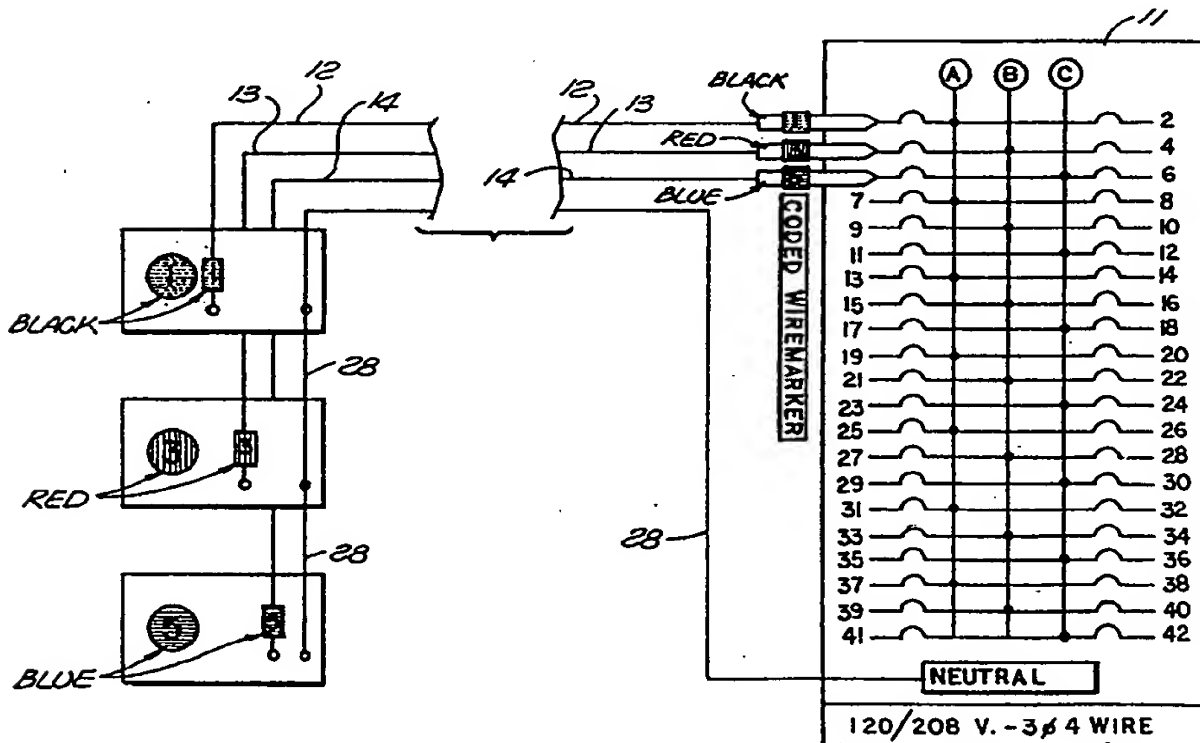
Primary Examiner—Paul A. Bell

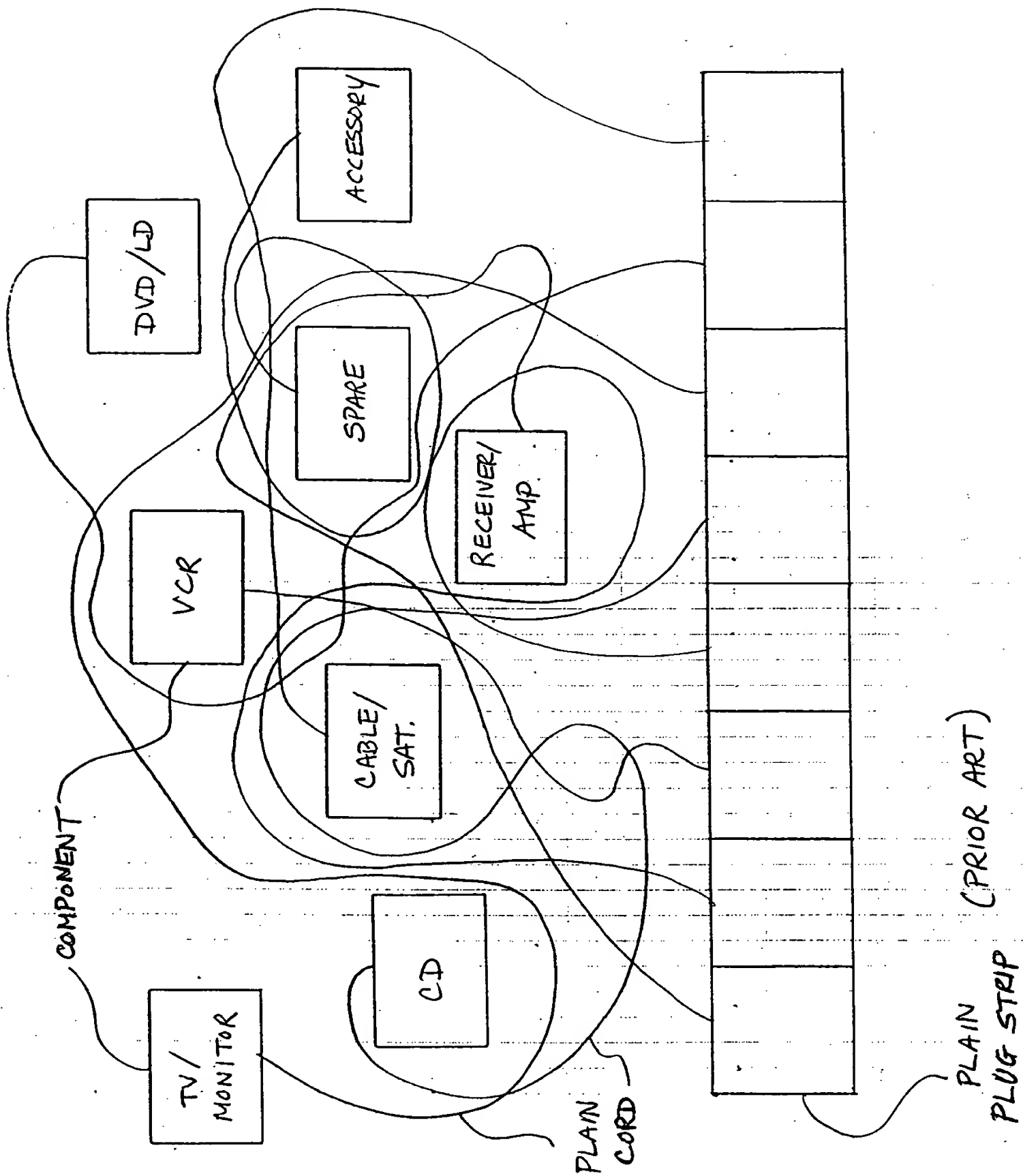
Attorney, Agent, or Firm—Harris, Wallen, MacDermott & Tinsley

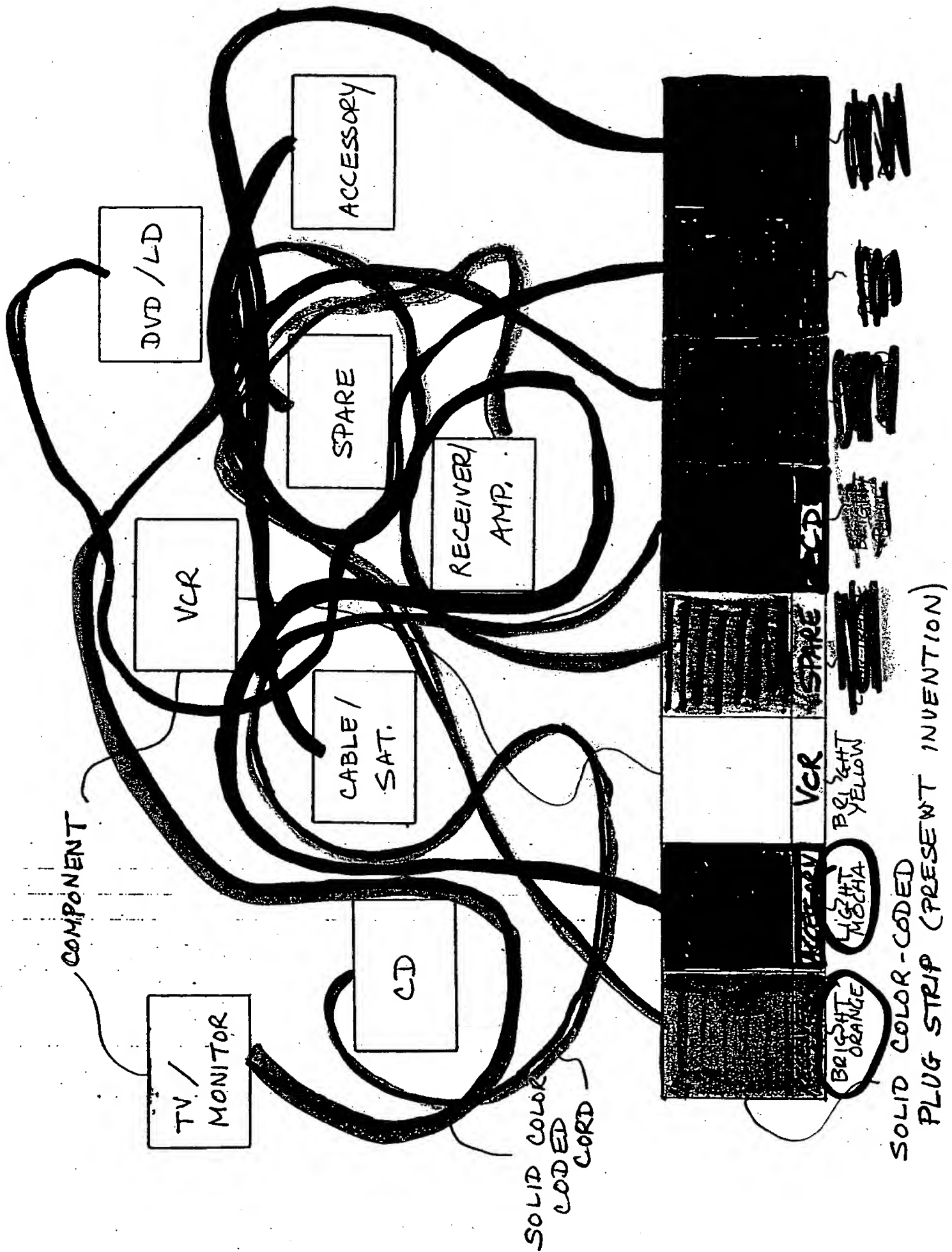
[57] ABSTRACT

A system for marking a plurality of separate electrical wires and electrical outlet locations in electrical construction wiring between a circuit breaker panel and a plurality of outlet boxes pursuant to a wiring diagram, including a marker carrier for carrying a plurality of separably adhered markers, a first set of wire markers comprising a first plurality of pairs of separable wire markers distinctively coded in a first manner and divided into a second plurality of subsets with wire markers of each subset further distinctively coded in a second manner, and a second set of outlet box markers comprising a corresponding second plurality of separable box markers distinctively coded in the first manner, and further distinctively coded in the second manner. A method for installing electrical wires using the system.

4 Claims, 2 Drawing Sheets







ACCESSORIES

Sony Showcases New Line In NY

At its recent Product Showcase held in New York City, Sony displayed a number of new accessories, including wearable stereo speakers, a portable stereo speaker, wireless headphones, and noise-canceling headphones and earbuds.

The new wearable speakers, model SRS-GS70, rest on the shoulders, using the shoulder blades to help amplify the sound.

"They can be used with games where you need to have both hands free to play the game, or for additional surround sound speakers," says Masa Yamamoto, VP of Sony's Accessory Products group. They ship in June at a suggested retail price of \$99.95.

Yamamoto pointed out that Sony is planning to introduce at least 30 new accessory products in fiscal 1997.

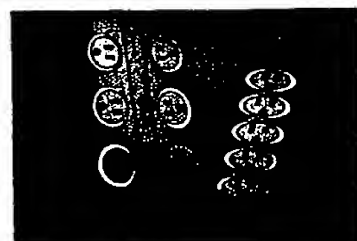
Also new from Sony is the portable stereo speaker system, model SRST1, that can be used for travel, laptop computers, or "any portable audio," Yamamoto explains.

The magnetically shielded speaker unit has tweeters and woofers that fold down and a support stand that also folds down for portability. It features a built-in 2-watt amplifier and uses AA batteries or an AC adapter.

The portable travel speaker unit measures 5 3/4 x 4 1/4 x 1 5/16 inches and ships in May at a suggested retail price of \$59.95.

Sony was also showing its 900MHz wireless speakers, which were introduced recently at \$149.94, and its noise-cancellation headphones and earbuds.

Yamamoto pointed out that Sony is planning to introduce at least 30 new accessory products in fiscal 1997. "We are looking forward to growing the business," he said.



'Designer' Surge Protectors Debut From Kensington

San Mateo, Calif.-based Kensington has taken surge protection to a new level with its designer Smart Sockets line built to protect computers with modems.

The contemporary-look surge protectors feature color-coded sockets and matching identification rings to be placed on the electrical device that is plugged into it.

"The line has innovative features, great prices, and unsurpassed warranties in a nice-looking, really different product," says Beth Johnson, senior product manager of Kensington's Power Group.

Both the Strip Model and the Adapter Model come in basic, standard and premium configurations, with different joule ratings, product warranties, cord lengths and price points.

The estimated street price of the Strip Model is \$19.99 for the Basic unit, \$24.99 for the Standard, and \$29.99 for the Premium unit.

The Adapter model is expected to sell for \$29.99 for the Basic, \$39.99 for the Standard, and \$49.99 for the Premium.

The Adapter Models are designed with sockets positioned and spaced so they can accommodate up to six AC adapters without overlapping.

Both models are Internet-ready with telephone, modem or fax protection.

The Smart Sockets surge protectors are scheduled to ship in April.

Naki Arms Game Players With Lunar Gun Add-On

Naki International of Pacoima, Calif., is introducing its new Lunar Gun controller for shooting games for the Sony PlayStation and Sega Saturn systems.

Designed to help gamers draw more quickly, the Lunar Gun offers features such as auto-reload to prevent the usual reloading delays in most games; autofire, which keeps firing as long as the trigger is pressed; semi autofire, which automatically fires three shots whenever the trigger is pressed; and a thumb-activated button that triggers bombs and special weapons.

Colored LEDs on the side of the gun allow users to monitor the status of the features. The packaging for the new Lunar Gun is color coordinated according to the game system.

Naki is also offering the Red Sight, a laser beam option that attaches to the gun to help gamers guide their shooting.

The Lunar Gun for PlayStation and



World's most fun feature is optional Red Sight laser beam attachment that helps players take aim.

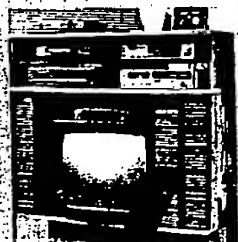
optional laser beam are now shipping at \$27.99 and \$29.99, respectively. A Saturn/PlayStation combo unit will be available later this spring, and a Nintendo 64 version is also coming, says

national sales manager Moe Sapino.

"You need a light gun to fully enjoy shooting games, and the Lunar Gun has the most advanced light gun features available," says Sapino.



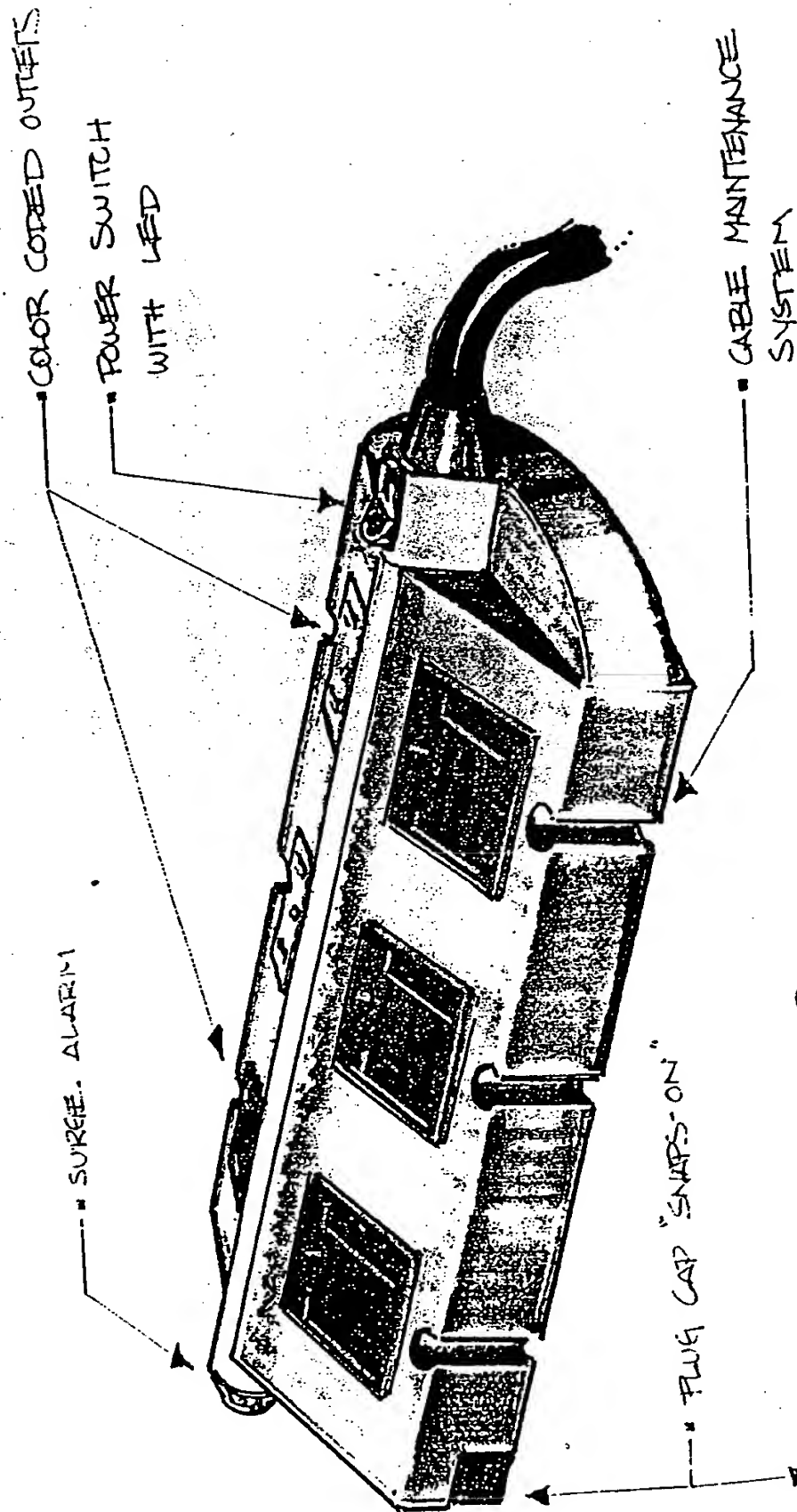
Recently, Recoton has introduced the world's first remote control that can be used to control a wide range of electronic devices. The new Recoton LRC (Long Range Control) remote control is designed to be used with a wide range of electronic devices, including VCRs, CD players, and more. The LRC is designed to be used with a wide range of electronic devices, including VCRs, CD players, and more. The LRC is designed to be used with a wide range of electronic devices, including VCRs, CD players, and more.



RECOTON
2000 Lake Edison Road, Lake Mary, FL 32746

EXHIBIT A - ANTEDATING EVIDENCE

- 1. Monster Cable Products, Inc.'s proprietary laboratory drawing (July 28, 1994) (1 page).**
- 2. Kensington Microware, Ltd.'s product review publication (September 1997) (1 page).**



SEE PROFILE

UNCLASSIFIED DOCUMENT DATE

7-8-94



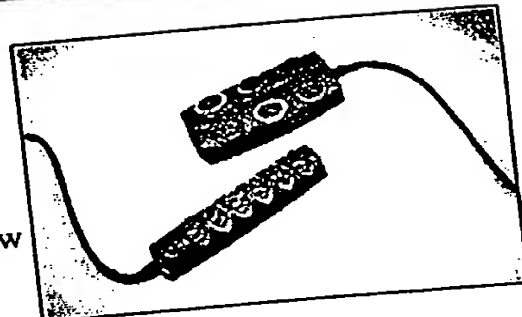
MacUser / September 1997

Reviews

Kensington SmartSockets Strip Model and Adapter Model

★★★★

A sexy surge protector may seem an impossibility, but two new Kensington SmartSockets come close to making it a reality. The Strip Model is merely a straightforward power strip -- albeit an exceptionally well-designed one; the Adapter Model, on the other hand, can protect against nearly three times the surge energy and accommodates up to six AC adapters. Each model also protects one telephone line. The flashy design is not just for looks, either: Included are six pairs of labels that match the colored rings around each socket. Put one label on each peripheral and a matching one on its power cord, and you'll never unplug the wrong device again. / LaMont Ridgell



List all MacUser reviews of Surge Protectors.

Kensington SmartSockets Strip Model and Adapter Model, \$19 and \$50 (estimated street).
Company: Kensington, San Mateo, CA; 800-535-4242 or 415-572-2700.

From MacUser magazine, now incorporated into Macworld.

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EXHIBIT B - ENVIRONMENTAL PSYCHOLOGY PUBLICATIONS

- 1. Patricia Valdez and Albert Mehrabian, Effects of Color on Emotions, Journal of Experimental Psychology: General, 123, pp. 394-409 (1994) (16 pages).**
- 2. Lyle E. Bourne and Bruce R. Ekstrand, Psychology: Its Principles and Meanings 3rd Ed., pp. 24-25, Holt, Rinehart and Winston (1979) (2 pages).**

Effects of Color on Emotions

Patricia Valdez and Albert Mehrabian

Emotional reactions to color hue, saturation, and brightness (Munsell color system and color chips) were investigated using the Pleasure-Arousal-Dominance emotion model. Saturation (S) and brightness (B) evidenced strong and consistent effects on emotions. Regression equations for standardized variables were: Pleasure = .69B + .22S, Arousal = -.31B + .60S, Dominance = -.76B + .32S. Brightness effects were nearly the same for chromatic and achromatic colors. Blue, blue-green, green, red-purple, purple, and purple-blue were the most pleasant hues, whereas yellow and green-yellow were the least pleasant. Green-yellow, blue-green, and green were the most arousing, whereas purple-blue and yellow-red were the least arousing. Green-yellow induced greater dominance than red-purple.

There is a large body of literature on the psychology of color. The research spans more than a century, covers a wide range of interests, and exhibits varying degrees of methodological rigor. The topics of investigation include: (a) color reactions as functions of personality and psychopathology, (b) physiological reactions to color, (c) color preferences, (d) color effects on emotions, (e) color effects on behavior, and (f) reactions to color concepts.

Methodological and Conceptual Issues

Color stimuli are characterized completely in terms of hue (i.e., wavelength), brightness or value (i.e., black-to-white quality) and saturation or chroma (i.e., purity or vividness, with lower saturation colors containing more grey). The following, more precise, definition of saturation is helpful: "Munsell chroma is often considered to be the approximate counterpart of perceived saturation. The Munsell chroma of a color sample is defined as the difference from a grey of the same lightness" (Agoston, 1979, p. 87).

As Gelineau (1981) noted, much of the research on color and affect is weak on several grounds. The methodological problems can be grouped in two broad categories. The first group includes studies that have failed to provide adequate specifications or controls of color stimuli (e.g., absence of controls for saturation and brightness while investigating effects of hue) and use of nonstandard or unspecified lighting conditions. The second group of studies failed to use sufficiently reliable, valid, or comprehensive measures of emotional responses to color stimuli. Thus, despite the substantial body of experimental work in this area, results have failed to provide a thorough and general characterization of relationships between color and affect.

The following review of some of the best studies in the field includes comments, when appropriate, on specific methodological problems associated with each study. It is useful, nevertheless, to provide a broad overview of the types of methodological problems encountered in this literature. (Specific studies exhibiting each type of methodological problem were reviewed by Valdez, 1993.)

The first group of methodological problems relates to color stimuli. Many studies have simply reported vague verbal descriptions of the color samples displayed to subjects. Other researchers selected color stimuli that they *felt* best represented particular hues, such as red or green. Also, a number of studies did not use actual color stimuli but instead elicited subjects' responses to verbal labels of color (e.g., "red" or "black").

Other studies have failed to relate the color samples used to a standardized system of color notation (e.g., Munsell). Some of these specified one aspect (usually hue) but failed to specify the two additional characteristics of color necessary for a complete description of the color samples used. Other researchers who have provided an exact specification of each color sample (e.g., a Munsell blue with saturation value of 8 and brightness of 5) have tested differences in reactions to color samples that confounded hue, saturation, and brightness effects.

The second group of methodological problems relates to responses to color (i.e., the dependent measures) and is illustrated by studies that have used adjective checklists with dubious reliability and validity to assess emotional reactions to color. An even more problematic technique involved having subjects match verbal emotion labels to different color samples. Single-emotion terms that refer vaguely to discrete emotional states (e.g., "exciting" or "comfortable") have doubtful reliability for assessing emotional reactions. Furthermore, in the absence of a theoretical system that interrelates discrete emotional states, single-emotion terms do not provide a basis for characterizing similarities and differences in emotional reactions to various colors.

Other studies have used extremely rudimentary measurement techniques by, for instance, requesting that subjects

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The present article is based on a dissertation written by Patricia Valdez and supervised by Albert Mehrabian.

Correspondence concerning this article should be addressed to Albert Mehrabian, Department of Psychology, 405 Hilgard Avenue, Los Angeles, California 90024.

rank the color samples on pleasantness. The single term "pleasantness" is apt to elicit different sets of associations from different subjects. Some people, for instance, may associate pleasantness with comfort and relaxation (i.e., pleasure plus low arousal), whereas others may associate it with excitement and elation (i.e., pleasure plus high arousal). Thus, whether used for characterizing color samples or for comparing (ranking) colors, single terms are likely to have doubtful reliability and validity in assessing emotions.

It also is difficult to abstract general patterns of findings from the color-emotion literature, because experimenters have used highly limited assessments of reactions to color (e.g., feelings of aggression) or have used different and nonoverlapping dimensions to assess emotional reactions to color (e.g., "happy" or "showy" in one study, as compared with "arousal" or "preference" in others). A comprehensive system for the description of emotions is needed to compare and contrast findings from studies that have used these nonoverlapping dependent measures.

The Pleasure-Arousal-Dominance (PAD) Emotion Model

General characterization of the emotional effects of color requires a framework for the general description of emotional states. The rationale for the PAD emotion model, used in the present series of studies, is reviewed here, because we use the model below to describe and interrelate findings that used a variety of verbal-report, physiological, and behavioral measures bearing on emotions.

Osgood, Suci, and Tannenbaum (1957) identified Evaluation, Activity, and Potency as three basic dimensions of meaning. These factors, originally extracted from reactions to verbal concepts, were replicated in studies of reactions to highly diverse stimuli, such as sonar signals and paintings (Osgood et al., 1957; Snider & Osgood, 1969). Mehrabian (1972) noted that the same or similar factors were obtained also from factor-analytic studies of social cues, including postures, body positions, facial and vocal expressions, gestures, and movements. The considerable generality of the semantic differential factors suggests that they represent lowest common denominators of cognition and are thus associated strongly with affective responses. These low-level cognitive-affective responses in turn form the basis for metaphorical comparisons of objects and events in distinct areas of human experience (e.g., Osgood, 1969).

Mehrabian and Russell (1974) suggested that the dimensions of pleasure-displeasure (the emotional counterpart of Evaluation), arousal-nonarousal (the emotional correlate of stimulus Activity), and dominance-submissiveness (the converse of stimulus Potency) could provide a general description of emotions. Their preliminary measures of pleasure, arousal, and dominance accounted for 27, 23, and 14 percent of variance, respectively, of emotional reactions to highly varied everyday situations (Mehrabian & Russell, 1974, Ch. 2).

Russell and Mehrabian (1977) also showed that most of the reliable variance in 42 verbal-report scales could be

accounted for in terms of the PAD (i.e., pleasure, arousal, and dominance) emotion scales. Shaver, Schwartz, Kirson, & O'Connor (1987) used multidimensional analyses to study 135 emotion terms, and their results corroborated the PAD Emotion Model. Although they obtained two-dimensional (Evaluation and Intensity) and three-dimensional (Evaluation, Potency, and Activity) solutions, they found the three-dimensional representation of affect to be more informative than the two-dimensional one (Shaver et al., 1987, p. 1071).

The generality of the PAD Emotion Model is illustrated by dichotomizing each of the dimensions: pleasure (+P) versus displeasure (-P), arousal (+A) versus non-arousal (-A), and dominance (+D) versus submissiveness (-D). The resulting $2P \times 2A \times 2D$ emotion categories are illustrated by the following groups, which are derived from ratings of 240 emotional states on the PAD scales (Mehrabian, 1978; Russell & Mehrabian, 1977):

- +P+A+D: admired, bold, creative, powerful, vigorous
- +P+A-D: amazed, awed, fascinated, impressed, infatuated
- +P-A+D: comfortable, leisurely, relaxed, satisfied, unperturbed
- +P-A-D: consoled, docile, protected, sleepy, tranquilized
- P+A+D: antagonistic, belligerent, cruel, hateful, hostile
- P+A-D: bewildered, distressed, humiliated, in pain, upset
- P-A+D: disdainful, indifferent, selfish-uninterested, uncaring, unconcerned
- P-A-D: bored, depressed, dull, lonely, sad.

Sample average ratings on pleasure, arousal, and dominance (scored from -1 to +1), respectively, were as follows for some of the emotions in the preceding groups: bold (.44, .61, .66), impressed (.41, .30, -.32), comfortable (.85, -.19, .13), protected (.60, -.22, -.42), hostile (-.42, .53, .30), distressed (-.61, .28, -.36), uncaring (-.32, -.12, .28), bored (-.65, -.62, -.33).

The preceding review of the PAD Emotion Model illustrates the model's considerable generality and potential versatility as a descriptive system for emotions. Accordingly, in the present study we used improved versions of the PAD emotion scales, provided by Mehrabian (1978), to assess emotional reactions to color.

Color Reactions as Functions of Personality and Psychopathology

Despite considerable interest in this area, it is difficult to draw any reliable conclusions from the available work. Much of the relevant research is methodologically weak and usually has relied on the Rorschach (1942) and the Luescher Color Test (Luescher & Scott, 1969). Both of the latter measures have problems with respect to validity (e.g., note

Cerbus & Nichols, 1963, and Frank, 1976, for reviews of the literature).

Physiological Reactions to Color

These studies have been motivated largely by the hypothesis that long-wavelength colors (e.g., red and yellow) are more arousing than short-wavelength colors (e.g., blue and green). Experimental studies that have used physiological measures (e.g., galvanic skin response [GSR], electroencephalograph) generally have shown that red and yellow were indeed more arousing than blue and green (e.g., Gerard, 1958; Jacobs & Hustmyer, 1974; Wilson, 1966). For example, Wilson's (1966) subjects were exposed to five red and five green slides, in alternating order. Results with two measures supported the hypothesis that red is more arousing than green, with the effect being particularly apparent in the GSR data. It should be noted, however, that neither color brightness nor saturation were controlled in the study. More generally, none of the studies dealing with physiological reactions to color have investigated these reactions in relation to color brightness and saturation levels.

Color Preferences

Much of the earlier work dealing with color preferences has failed to control for the three dimensions of color—hue, saturation, brightness—and thus is methodologically flawed (e.g., Birren, 1952; Dashiell, 1917; Eysenck, 1941). Guilford (1934) and Guilford and Smith (1959), however, conducted some of the most systematic work in this area. Their studies yielded the following rank-ordering of hues, from most to least preferred: blue, green, purple, violet, red, orange, yellow. Also, Guilford and Smith (1959) found that brighter and more saturated colors elicited greater pleasure, with the relationships tending to be curvilinear.

Color Effects on Emotions

Experimenters used a variety of affect inventories and semantic measures in these studies. Jacobs and Suess (1975) investigated the effects of four primary colors (red, yellow, green, blue), projected onto a large screen. Scores on Spielberger, Gorsuch, and Lushene's (1970) State-Anxiety Inventory served as the dependent variable. Brightness and saturation levels of the colors were not controlled. Nevertheless, it is noteworthy that higher state-anxiety scores were associated with red and yellow than with blue and green. Because anxiety involves displeasure and high arousal, the latter findings were consistent with results from studies of physiological reactions to color (demonstrating that red and yellow were more arousing than blue and green) and with studies of color preferences (showing that red and yellow were less pleasant than blue and green).

Wexner's (1954) study dealt more generally with associations between color samples and words that describe feelings. The color red was associated with "exciting" and

"stimulating," both of which imply pleasure and high arousal. Blue was associated with "secure/comfortable" and "tender/soothing," which imply pleasure and low arousal. Orange was associated with "disturbing/distressed/upset," implying displeasure and high arousal. Black was associated with "powerful/strong/masterful," implying high dominance. Although Wexner neither used standard specifications for her color samples nor controlled for brightness or saturation, her findings were generally in accord with those already reviewed.

Profusek and Rainey (1987) investigated the effects of rooms painted in red versus Baker-Miller pink on state anxiety. As hypothesized, pink elicited less anxiety than red.

Weller and Livingston (1988) investigated the effects of the color of paper (blue, pink, white) on which text was presented to subjects. Subjects read about rape and murder incidents and reported their emotional reactions to these events. The same events were less upsetting when described on pink paper than when described on blue or white paper. Brightness and saturation were not controlled in the study, although, pink generally tends to be of high brightness and low saturation, whereas white is of high brightness and is achromatic.

Subjects in Wright and Rainwater's (1962) study rated color chips on six connotative dimensions. "Showiness" (assumed here to be indicative of the arousing quality of a color) correlated positively with saturation and brightness. Furthermore, "calmness" (assumed to be indicative of the nonarousing quality of a color) correlated negatively with brightness. Together, these results suggest that arousal is a positive correlate of color saturation and brightness.

Color Effects on Behavior

A few studies have investigated effects of colors on distinct, and unrelated, behaviors. Garrett and Brooks (1987) found that ballot color (green vs. pink) affected voting behavior. When a candidate's sex was unspecified, men showed greater preference for candidates whose positions were printed on green ballots than for those whose positions were printed on pink ballots. Female subjects showed the reverse preferences. However, ballot color had no effect when candidate sex was specified: men tended to vote for men and women tended to vote for women, regardless of ballot color.

Damhorst and Reed (1986) investigated the effects on male raters of female job applicants' dark versus light clothing and facial expressions. Men rated models who wore dark jackets as more powerful and competent than models who wore light jackets. Also, brightness of clothing was more important than facial expressions in determining judgments of potency. Finally, Frank and Gilovich (1988) investigated the effects of black versus nonblack uniforms of professional football and hockey teams on aggressive behavior. They found that black uniforms, compared with nonblack uniforms, not only were associated with greater degrees of perceived aggression but also led to higher levels of player aggressiveness.

Reactions to Color Concepts

Unlike the preceding studies, which investigated emotional and behavioral reactions to specific color stimuli, the final study noted here dealt with emotional reactions to color concepts. Adams and Osgood (1973) conducted a very comprehensive cross-cultural study in which subjects from 3 different cultures rated color concepts (e.g., the words, blue, "green," "yellow") using the semantic-differential actors (Osgood et al., 1957).

The following effects of hue were evident across the 23 samples as a group: Blue and green were good; yellow was weak and bad; red was strong and active; black was bad, strong, and inactive; grey was bad, weak, and inactive; white was good and weak; and color was good and active. In addition, evaluation correlated strongly and positively with brightness, potency correlated positively with darkness, and activity was associated strongly with color (vs. no color).

The preceding review shows that, despite considerable interest and work in the field, studies have yet to provide a thorough and general characterization of the relationships between color and emotions. The present series of studies was designed to address various methodological and conceptual issues by (a) using a wide range of color samples, (b) referencing the color samples in terms of a standardized system (Munsell), (c) using experimental controls in investigating the effects of color hue, saturation, and brightness, (d) using standardized background and lighting conditions, and (e) using a comprehensive system of measures to assess emotional reactions.

Hypotheses

Hypotheses were abstracted from the review noted above and are summarized as follows. Pleasure is a positive correlate of brightness and saturation. Short-wavelength hues (e.g., blue, green) are more pleasant than long-wavelength hues (e.g., yellow, orange). Because, however, findings on the pleasantness of red were contradictory, red was hypothesized to be neutral on pleasantness. Long-wavelength hues are more arousing than short-wavelength hues. Arousal is a positive correlate of brightness and saturation. Dominance is a negative correlate of brightness.

Plan of the Studies

We conducted three studies and addressed the following three questions, respectively: How are emotions affected by (a) brightness and saturation of colors, (b) hue, and (c) brightness of achromatic colors? A within-subject design could not be used to investigate all of the preceding effects in a single study, because there were too many color samples requiring judgment. Accordingly, the color samples were organized into the three categories noted above, thus allowing the use of a within-subject design in the investigation of each question.

Study 1

Study 1 was designed to investigate the emotional impact of color saturation and brightness. In the study, saturation and brightness were within-subject factors, and hue, along with subjects, provided replications.

Method

Subjects

Two hundred and fifty University of California undergraduates (103 men, 147 women) served as subjects, in partial fulfillment of a course requirement.

Materials and Setting

Color samples. Color samples were taken from the Munsell Color System (available from the Macbeth division of Kollmorgen Corporation) and were on 3-in. \times 5-in. (7.6-cm \times 12.7-cm) cards. The following 10 hue groups from the Munsell Color System were used: red, yellow, green, blue, purple; and the five intermediate hues, yellow-red, green-yellow, blue-green, purple-blue, and red-purple.

A minimum of 7 color samples was chosen from each hue level so as to provide representative variations of brightness and saturation for each hue. As much as possible, selections within each hue represented combinations of high and low saturation with high and low brightness. In all, 76 color stimuli were selected for testing.

Display of color samples. The color stimuli were placed in the window of an 8.5-in. \times 11.0-in. (22-cm \times 28-cm) middle grey (Munsell value = 5) background.

Test setting. The room where subjects were tested contained no windows and was illuminated with eight fluorescent tubes (Sylvania GTE, Design 50, at 40 W) with a color temperature at 5,000° K, which approximates daylight. The choice of lighting was important, because data from Munsell color samples have been derived from the CIE data for illuminant "C," which represents daylight conditions. Angles of illumination and observation were in accordance with Commission Internationale de L'Eclairage (CIE) recommendations (Judd & Wyszecki, 1975). Color stimuli were positioned such that the top of the display page was leaning away from the subject at a 45° angle from the vertical position (to allow a 45° illumination angle). Stimuli were approximately 24 in. (61 cm) from subjects.

Measures of emotional state. We used Mehrabian's (1978) verbal-report Pleasure-displeasure, Arousal-nonarousal, and Dominance-submissiveness (PAD) scales to assess emotional responses to color.

Items of the PAD scales were in semantic-differential format. To ensure unconfounded assessment of each of the three basic emotion factors, Mehrabian (1978) selected precalibrated emotion terms for each pair. The 2 words in each pair had been rated almost equally on two emotion factors and differed greatly on the third remaining emotion factor. For instance, the 24 pairs (items) of the Pleasure-displeasure Scale were exemplified by "happy-cruel" and "affectionate-nasty." "Happy" and "cruel" had been rated almost equally with respect to connotations of arousal and dominance but differed with respect to pleasure. Similarly, "affectionate" and "nasty" fulfilled the requirement of differing on pleasure but being nearly equal on arousal and dominance.

For each pair, subjects placed a check mark in one of nine spaces separating the pair to show how they felt. The Arousal-nonarousal Scale contained 8 items exemplified by "troubled-dull" and "frustrated-sad." These pairs differed with respect to arousal but were almost equal on pleasure and dominance. The Dominance-submissiveness scale contained 15 items exemplified by "masterful-fascinated" and "violent-fearful."

Half the items in each of the Pleasure and Arousal scales and 7 of the 15 Dominance items were inverted to control for response bias. Items from all three scales were intermixed to achieve an opaque (nonobvious) assessment of the various emotions.

Procedure

Subjects were run in groups of 2. Each subject rated seven to nine different color samples within the same hue. The color samples were presented to subjects one at a time. The order of presentation of color samples was designed to avoid extreme (or minimal) changes in brightness and saturation in successive stimulus presentations. Instructions given the subjects included the following key statements: "I will present you with one color at a time. It is important that you take time to just look at the color and to think of how it makes you feel before you start to rate it. Look at the color as often and as long as you need to get an accurate rating."

Subjects responded to Mehrabian's (1978) three PAD emotion scales while viewing each color sample. When a subject completed rating a color sample, the completed emotional-response forms were removed, and a new set of blank forms was presented along with the next sample to be rated. A 5-min break followed the rating of the fourth color sample and was intended to maximize subject attentiveness in rating the remaining samples.

Results and Discussion

Reliabilities of the Dependent Measures

The 250 subjects in Study 1 each rated a minimum of seven color samples. In this way, pleasure, arousal, and dominance reactions were assessed a total of 1,896 times across color samples and subjects. Alpha internal consistency-reliability coefficients, based on these data, were .97 for the 24-item Pleasure-displeasure Scale, .85 for the 8-item Arousal-nonarousal Scale, and .90 for the 15-item Dominance-submissiveness Scale.

The preceding coefficients were high and provided evidence of satisfactory levels of internal consistency (reliability) for all three dependent measures of emotional state.

Computation of Averaged Emotional Reactions to Each Color Sample

A total of 76 color samples was used in Study 1, and each color sample was rated by approximately 25 subjects. Group reactions, rather than individual reactions, to each color sample were of primary interest from a pragmatic standpoint (i.e., with respect to possible generalizations from the present results to everyday life situations). Therefore, we computed average emotional reactions on pleasure, arousal, and dominance for each color sample across all subjects who rated that sample. These averaged values of pleasure,

arousal, and dominance response to each color sample served as the dependent variables in subsequent data analyses reported below. It is important to note that basing statistical analyses of the data on such averaged (instead of individual reaction) scores to the color samples reduced the number of observations and provided more conservative estimates of statistical significance in the following analyses.

Linear Regression Analyses

We used stepwise multiple regression analyses to explore possible contributions of brightness and saturation to each of the three dependent measures of emotional state (pleasure, arousal, and dominance).

In the first of three regression analyses, averaged pleasure-displeasure responses to each of the 76 color samples constituted the dependent variable, and brightness and saturation were independent variables. Two analogous regression analyses were done for arousal-nonarousal and dominance-submissiveness. Significance was assessed at the .05 level and yielded the following three equations, which are written for standardized variables to facilitate comparisons of the magnitudes of various significant effects. The numbers in parentheses to the right of each equation are multiple regression coefficients.

- (1) Pleasure = .69 Brightness + .22 Saturation (.69)
- (2) Arousal = -.31 Brightness + .60 Saturation (.73)
- (3) Dominance = -.76 Brightness + .32 Saturation (.87)

The multiple regression coefficients for Equations 1-3 range from .69 to .87, showing that a substantial portion of variance in emotional response to colors is explained by brightness and saturation levels of colors. This result is of considerable importance in considering possible effects of color hue on emotional response (investigated in Study 2).

The positive relationships of brightness and saturation with pleasure were hypothesized. As expected, brighter and more saturated colors were more pleasant (Equation 1). However, the differential magnitudes of these two effects had not been anticipated. The present results indicate that brightness had a considerably stronger effect than saturation on pleasure-displeasure reactions to color samples. Although this result was not anticipated, it nevertheless represents an important generalization regarding emotional responses to color.

Equation 2, for arousal, indicates that less bright and more saturated colors were more arousing. Here, the hypothesized positive relationship between saturation and arousal was correct; however, results were exactly opposite to that hypothesized for the relationship between brightness and arousal.

One reason for the incorrect hypothesized relationship between brightness and arousal is that the latter hypothesis was inferred from reports that used experimental methods that confounded brightness and saturation levels while testing

ing for the effects of brightness. In retrospect, and given the present findings, it is apparent that previous studies tended to select highly saturated and bright colors when sampling for bright colors. Reexamination of each set of Munsell color chips within each hue shows that it is easy to think of bright colors as those that also are more saturated. Thus, the greater arousal response to such highly saturated color samples (used in previous studies) was incorrectly attributed to brightness rather than to saturation. This error was possible because the contribution of saturation to arousal is almost twice the magnitude (note the coefficient of +.60 in Equation 2) of the effect of brightness on arousal (a coefficient of -.31).

Equation 3 indicates that less bright and more saturated colors induced greater feelings of dominance in viewers. The effect of brightness had been hypothesized, although no hypothesis was offered regarding the relationship between saturation of colors and feelings of dominance they induced.

An alternate description of the results in Equation 3 is that the darker (less bright) colors elicited feelings of strength or boldness. Also, more saturated colors (being more vivid, purer, or stronger) also induced feelings of dominance. The regression results in Equation 3 also indicated that the effect of brightness was considerably stronger than that of saturation in determining dominance responses to color.

Separate Linear Regressions for Men and Women

We replicated the data analyses reported in the previous section separately for male and female subjects in Study 1. The objective of such additional analyses was to ascertain possible differences in emotional responses of men and women to brightness and saturation of colors. Results of these additional regression analyses are given in Table 1. For reference, Table 1 also contains overall results for the combined sample of men and women reported in the previous section.

Examination of Table 1 shows that men and women reacted with highly similar emotional responses to brightness and saturation levels of color samples. Overall, results for women were slightly stronger, as evidenced by a larger number of significant effects (in Table 1, color saturation related significantly to pleasure for women but not for men). Also, the magnitudes of the multiple regression coefficients were greater in the equations obtained for women, compared with men.

The statistical significance of this pattern of differences for men and women was assessed as follows. In six out of six comparisons of regression coefficients, the coefficients for women were larger than those for men, and this result was significant using the cumulative binomial distribution ($p = .0156$). This result suggested that women, compared with men, were slightly more sensitive in terms of their emotional reactions to brightness and saturation levels of colors.

Previous reviews of sex differences in color preferences (Norman & Scott, 1952; Whitfield & Wiltshire, 1990) have suggested general similarities in male and female prefer-

Table 1
Regression Coefficients for Brightness and Saturation as Determinants of Pleasure, Arousal, and Dominance in Study 1

Dependent variable	Regression coefficients (beta weights)		Multiple regression coefficient
	Brightness	Saturation	
Pleasure			
Men & women	.69***	.22*	.69
Men only	.61***		.61
Women only	.68***	.23*	.68
Arousal			
Men & women	-.31***	.60***	.73
Men only	-.27**	.54***	.65
Women only	-.31***	.60***	.72
Dominance			
Men & women	-.76***	.32***	.87
Men only	-.72***	.21**	.79
Women only	-.73***	.36***	.86

Note. All coefficients are given for standardized variables (as beta weights) to facilitate comparisons of the relative magnitudes of effects.

* $p < .05$; ** $p < .01$; *** $p < .001$.

ences for (or rankings of) various colors, while noting sex differences in the strengths of those preferences. The present findings help shed additional light on the question of possible sex differences in reactions to colors. Very simply, men and women reacted in highly similar emotional ways to brightness and saturation levels of colors, with women consistently showing a slightly stronger pattern of reactions.

Nonlinear Regression Analyses

We conducted additional regression analyses to test for possible second-order curvilinear relationships between the dependent and independent variables. First we conducted three separate regression analyses (for the dependent variables pleasure, arousal, and dominance, respectively) to test for possible significance of saturation and (saturation)². None of these three regression analyses produced significance for the (saturation)². Emotional reactions to different saturation levels of color are thus described best as linear effects, as given in Equations 1-3 and in Table 1.

We conducted a second set of three regression analyses to test for effects of brightness and (brightness)² on pleasure, arousal, and dominance, respectively. No significant effect of (brightness)² was obtained for pleasure. Thus, the linear effect of brightness on pleasure, as given in Equation 1, and the separate effects of brightness on pleasure for each sex, as given in Table 1, are sufficient.

However, the corresponding analyses for arousal and dominance yielded the .01-level significant effects given in Equations 4 and 5 that follow. These equations are written for raw (nonstandardized) arousal and dominance scores and brightness values (of which six discrete levels had been

sampled and ranged from 5 to 60) taken from the Munsell system.

$$\text{Arousal} = 8.724 - 0.62(\text{Brightness}) + .007173(\text{Brightness})^2 \quad (4)$$

$$\text{Dominance} = 28.156 - 1.66(\text{Brightness}) + .016(\text{Brightness})^2 \quad (5)$$

The multiple regression coefficient for Equation 4 is .52. Actual mean values of arousal and those predicted from Equation 4 were plotted against brightness (for each of the six brightness values sampled) and showed extremely close agreement (see Figure 1). Both the actual and predicted plots showed arousal declined steeply and monotonically with increasing brightness up to a brightness value of 43, beyond which arousal reversed and increased slightly for the highest brightness value. Generally, then, arousal decreases as colors range from dark to light, but there is a small reversal and increase in arousal for the lightest colors.

The multiple regression coefficient for Equation 5 is .88. Actual mean values of dominance and those predicted from Equation 5 were plotted against brightness (for each of the six brightness values sampled) and showed extremely close agreement (see Figure 2). Both the actual and predicted plots showed that dominance declined steeply and monotonically with increasing brightness up to a brightness value of 43, beyond which dominance leveled off. Generally, then, dominance decreases as colors range from dark to light but levels off for the lightest colors.

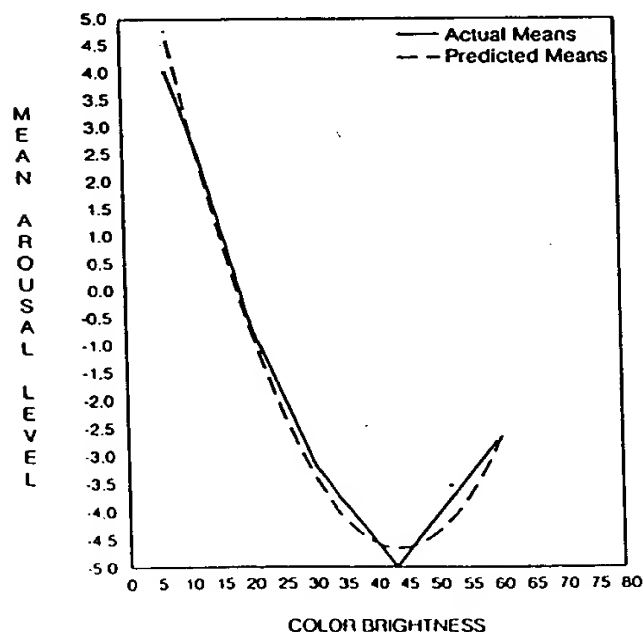


Figure 1. Actual and predicted average arousal levels as functions of color brightness in Study 1.

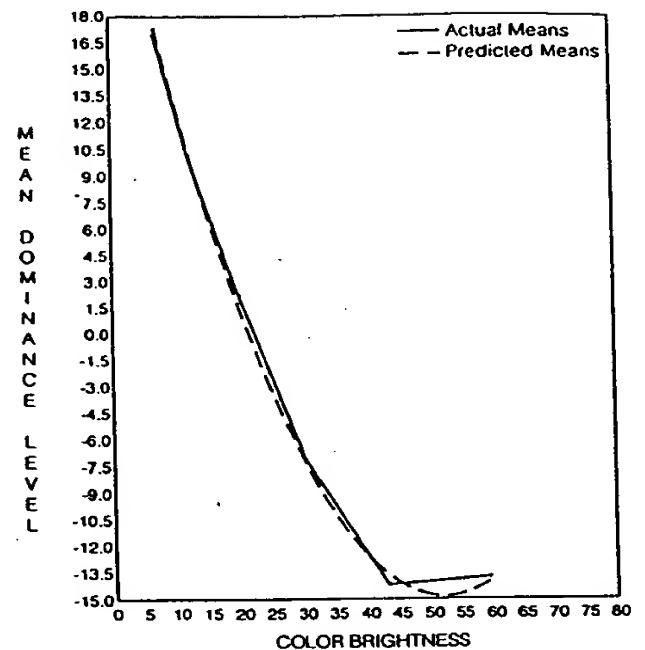


Figure 2. Actual and predicted average dominance levels as functions of color brightness in Study 1.

Study 2

In Study 2 we focused on the effects of color hue on emotions. Each subject rated 10 different hues of approximately the same brightness and saturation levels. Thus, here, hue was a within-subjects factor, and brightness and saturation, along with subjects, provided replications.

Method

Subjects

Subjects were 121 University of California undergraduates (47 men, 74 women) who served in partial fulfillment of a course requirement.

Materials and Setting

Five replication sets of 10 different hues were used. The 10 different hues in each replication were of equal brightness and saturation values. Furthermore, each of the five replications represented different levels of brightness and saturation.

The testing room, lighting, presentation of each color sample framed in the window of a middle-grey background, and the emotional-state measures were identical to those used in Study 1.

Procedure

Subjects were run 2 at a time. Each subject rated his or her emotional reactions to a succession of 10 color samples, all of which were of equal brightness and saturation and varied only in hue. Subjects received instructions analogous to those in Study 1.

Each subject rated his or her reactions to the first color sample, was given a fresh set of rating sheets while he or she viewed the second color sample to rate, and so forth. To minimize subject fatigue, we gave subjects a 10-min break after they rated the fifth sample. Five more color samples were rated after the break. Order of presentation of the 10 hues varied between subjects and was designed to avoid ratings of adjacent wavelengths in succession.

Results and Discussion

Reliabilities of the Dependent Measures

The 121 subjects in Study 2 each rated 10 color samples. In this way, pleasure, arousal, and dominance reactions were assessed a total of 1,210 times across color samples and subjects. Alpha reliability coefficients obtained from these data were .97 for the Pleasure-displeasure Scale, .76 for the Arousal-nonarousal Scale, and .90 for the Dominance-submissiveness Scale. All three reliability coefficients were deemed satisfactory.

Computation of Averaged Emotional Reactions to Each Color Sample

Fifty color samples were used in Study 2, and each color sample was rated by nearly 25 subjects. As in Study 1, average pleasure, arousal, and dominance reactions to each color sample were computed across all subjects who had rated that sample. These averaged values of pleasure, arousal, and dominance response to each color sample served as the dependent variables in the data analyses reported below.

Multivariate Analysis of Variance (MANOVA)

We used MANOVA to explore possible effects of hue (10 levels), subject sex, and Hue \times Sex on pleasure, arousal, and dominance reactions to colors. Significance of MANOVA effects was assessed at the .001 level. When significant multivariate effects were obtained, the corresponding significant univariate effects were interpreted.

The Hue \times Sex interaction failed to achieve significance, $F(27, 240) = 0.66$, $p > .50$, thus indicating that men and women did not differ significantly in their emotional reactions to the sample of 10 hues.

The MANOVA yielded significance only for hue, $F(27, 240) = 5.85$, $p < .001$. Significant .01-level main effects were obtained in the univariate analyses of all three dependent measures: pleasure, $F(9, 80) = 21.21$; arousal, $F(9, 80) = 3.80$; dominance, $F(9, 80) = 3.06$.

Tukey's Multiple Comparison Procedure was used to test for simple effects of hue on each of the three dependent variables.

Effects of Color Wavelength on Pleasure

A difference exceeding 22.50 in mean pleasure ratings for any two hues (Tukey's $W = 22.50$) was significant at the

.05 level. Figure 3 depicts a plot of mean pleasure responses to each of the 10 hues and is helpful in describing the significant findings. In Figure 3, the 2 complementary hues, purple and red-purple, are listed separately in the right-hand section of the graph.

Pleasure levels for blue, blue-green, green, red-purple, and purple were significantly greater than those for green-yellow, yellow, and yellow-red. Furthermore, pleasure levels for purple-blue and red were significantly greater than those for green-yellow and yellow. Finally, the pleasure level for yellow-red was significantly greater than that for yellow.

We analyzed data for the eight noncomplementary colors in a regression analysis in which wavelength was the independent variable and pleasure was the dependent variable. (The two complementary colors could not be included in the regression analysis, because these are not scaled alongside noncomplementary colors with respect to wavelength.)

Forty pleasure means (corresponding to five different colors in each of eight wavelength values) were available for analysis. Because the plot of actual means in Figure 3 suggests a curvilinear relationship, the regression analysis tested for effects of wavelength and (wavelength)² on pleasure ratings. The results of this regression analysis are summarized in Equation 6, which is written for raw pleasure scores and wavelength values of the color samples in the Munsell system. Significance of effects was assessed at the .05 level. The multiple regression coefficient for Equation 6 is .68.

$$\text{Pleasure} = 1561 - 5.48(\text{Wavelength}) + .0048(\text{Wavelength})^2 \quad (6)$$

Figure 3 also shows predicted pleasure scores, computed from Equation 6, for the eight noncomplementary wavelengths. The plot of predicted pleasure values in Figure 3 shows that Equation 6 provides only a rough approximation of the obtained means: Pleasure-displeasure reactions to noncomplementary colors were approximately a U-shaped function of wavelength, with yellows (green-yellow, yellow, and red-yellow) at the bottom portion of the U.

The latter findings were generally consistent with hypotheses derived from review of the literature. Nevertheless, the present findings provided a more concise way of describing relations of hue to pleasure: Short-wavelength hues were rated as being the most pleasant, with intermediate-wavelength hues being assigned low levels of pleasantness. Furthermore, yellow-red and red (the long-wavelength hues) reversed this trend and showed an increase in pleasure ratings. Finally, complementary colors (red-purple and purple) elicited high pleasure ratings comparable to ratings for the short-wavelength noncomplementary colors.

Effects of Color Wavelength on Arousal

As noted, the univariate effect of wavelength was significant for the dependent measure arousal. Using the Tukey test, a difference exceeding 4.55 in mean arousal ratings for

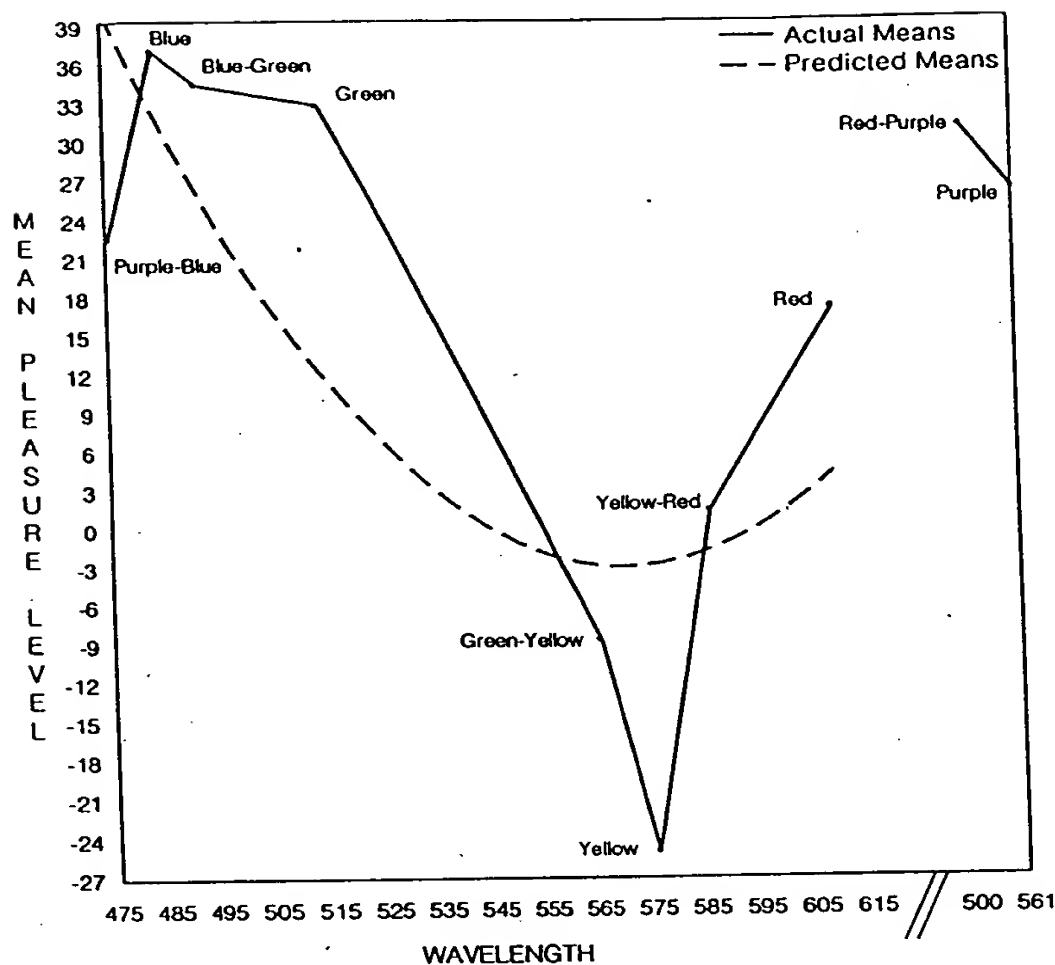


Figure 3. Actual and predicted average pleasure levels as functions of color wavelength in Study 2.

any 2 hues (Tukey's $W = 4.55$) was significant at the .05 level. Figure 4 provides a plot of mean arousal responses to each of the 10 hues. In Figure 4, the 2 complementary hues, purple and red-purple, are listed separately in the right-hand section of the graph.

The results given in Figure 4 did not support any of the hypothesized relationships between hue and arousal. Instead, the findings in Figure 4 showed that mean arousal level for green-yellow was significantly greater than the mean arousal levels for purple-blue, yellow-red, and red-purple. Also, the mean arousal level for blue-green was significantly greater than the mean arousal level for purple-blue.

We used a regression analysis to test for possible significance of a parabolic relationship of arousal (the dependent variable) to wavelength (the independent variable). Significance was not obtained for either the linear component of wavelength or for $(\text{wavelength})^2$.

The obtained results relating hue and arousal were generally weak and nonsignificant. The only noteworthy generalization is that the green hues (green-yellow, blue-

green, and green) elicited the highest arousal reactions from subjects. In this context, it is interesting to note that some fire departments are replacing their traditional highly saturated red trucks with trucks that have been painted green-yellow. The changeover to green-yellow as a choice for an attention-getting (or highly arousing) color is most appropriate in terms of the present findings.

Effects of Color Wavelength on Dominance

The univariate effect of wavelength was significant for the dependent measure of dominance. Using the Tukey test, a difference exceeding 12.48 in mean dominance ratings for any 2 hues (Tukey's $W = 12.48$) was significant at the .05 level. Figure 5 depicts a plot of mean dominance responses to each of the 10 hues.

No hypotheses had been offered regarding relationships of hue to dominance. The obtained results, shown in Figure 5, were generally weak and nonsignificant. The only pattern of significant differences was as follows: Green-yellow and

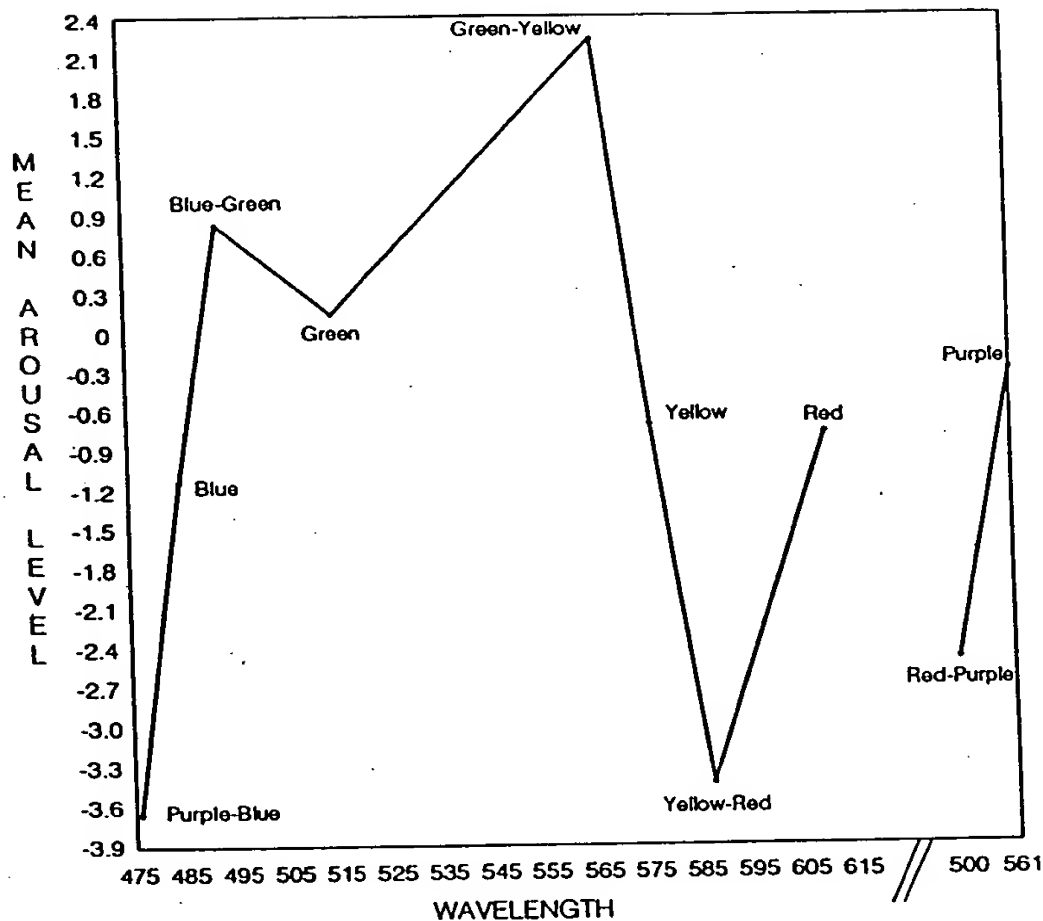


Figure 4. Mean arousal level as a function of color wavelength in Study 2.

yellow were rated as significantly more dominant than red-purple.

General Evaluation of Effects of Hue on Emotions

Findings in the present study that bear on relationships of hue to emotions were much weaker than anticipated. Although effects of hue on emotions were expected to be weaker than the effects of brightness and saturation, results were nevertheless disappointing. In particular, results relating hue to arousal and dominance were weak. In comparison, results bearing on relationships of hue to pleasure were far more detailed and provided substantial support for the corresponding hypotheses.

Study 3

In Study 3 we focused on the emotional impact of achromatic colors (i.e., white, three greys, black). Each subject judged all five samples.

Method

Subjects

Subjects were 25 University of California undergraduates (7 men, 18 women) who served in partial fulfillment of a course requirement.

Materials and Setting

Five achromatic color samples (corresponding to Munsell brightness values of 3, 12, 30, 43, and 79) were selected to represent the entire brightness dimension. The testing room, lighting, presentation of each color sample framed in the window of a middle-grey background, and emotional-state measures were identical to those used in Study 1.

Procedure

Subjects were run 2 at a time. Each subject rated his or her emotional reactions to all five achromatic color samples, one at a time. Subjects received instructions analogous to those in Study 1. Order of presentation of the five color samples was randomized across subjects.

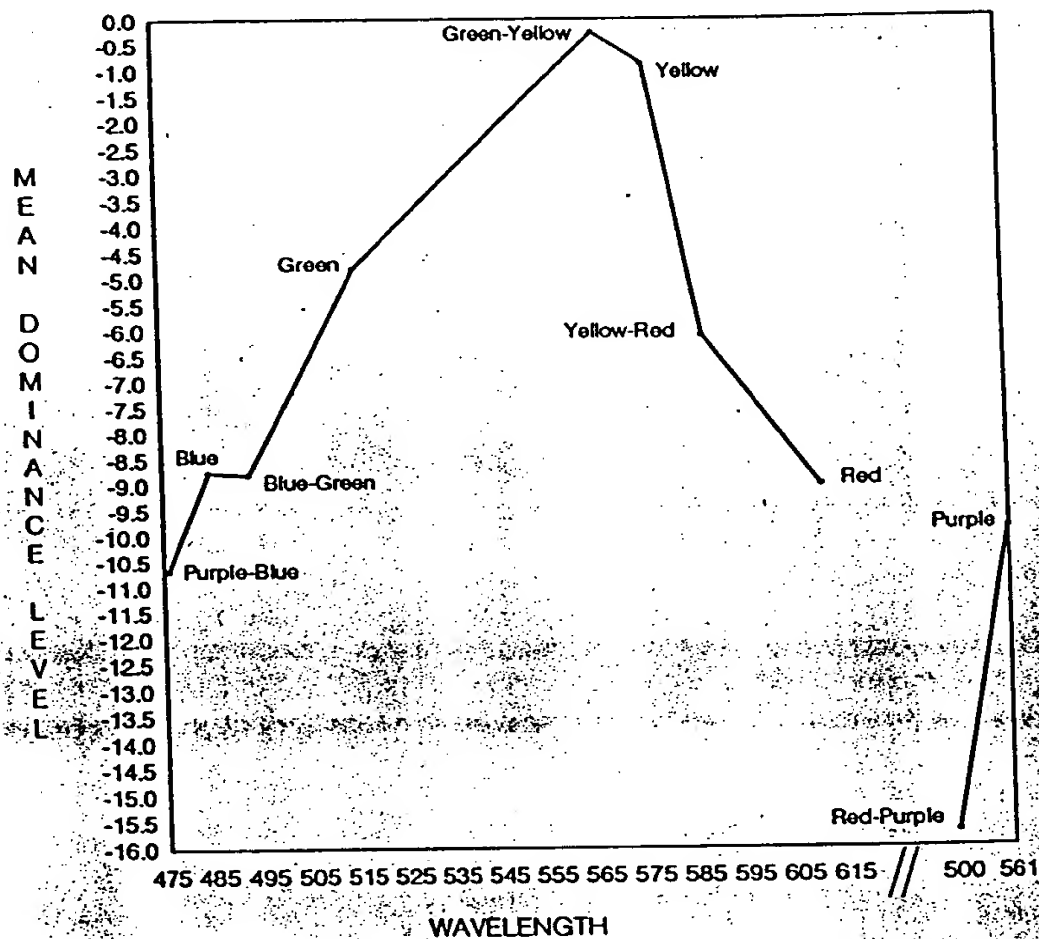


Figure 5. Mean dominance level as a function of color wavelength in Study 2.

Results and Discussion

Reliabilities of the Dependent Measures

The 25 subjects in Study 3 each rated five achromatic color samples, thus providing 125 pleasure, arousal, and dominance ratings. Alpha reliability coefficients were .98 for the pleasure scale, .80 for the arousal scale, and .93 for the dominance scale.

Computation of Averaged Emotional Reactions to Each Achromatic Color Sample

Five achromatic color samples (ranging from white to black) represented brightness variations only. Each color sample was rated by 25 subjects. As in Studies 1 and 2, we computed average pleasure, arousal, and dominance for each color sample across all subjects who rated that sample. These averaged emotional-response scores were used in subsequent data analyses.

Nonlinear Regression Analyses

We conducted three regression analyses to test for possible second-order curvilinear relationships between brightness (the independent variable) and pleasure, arousal, and dominance (the three dependent variables). Each regression analysis tested for possible significant effects of brightness and (brightness)² on each dependent measure. Significance was assessed at the .01 level, and the results are summarized in Equations 7, 8, and 9.

$$\text{Pleasure} = .71(\text{Brightness})$$

$$\text{Arousal} = 8 - 0.6915(\text{Brightness})$$

$$+ .0073(\text{Brightness})^2$$

$$\text{Dominance} = 25 - 1.2675(\text{Brightness})$$

$$+ .0088(\text{Brightness})^2$$

Equation 7 is written for standardized variables and shows a multiple regression coefficient of .71. Equation

and 9 are written for raw values of arousal and dominance and for brightness values given in the Munsell system. Multiple regression coefficients are .47 and .65 for Equations 8 and 9, respectively. Plots of the actual and predicted mean values of arousal and dominance as functions of brightness are given in Figures 6 and 7, respectively.

The positive relationship between brightness of achromatic colors and pleasure, given in Equation 7, had been hypothesized. As expected, pleasure reactions increased as color samples ranged from black, through greys of increasing brightness, on to white. Stated otherwise, black was rated as least pleasant, greys were assigned intermediate values in pleasantness, and white was the most pleasant. The relationship between brightness and pleasure was very strong (note the beta weight of .71 in Equation 7) and highly significant.

The relationship of arousal to brightness of achromatic colors is given in Equation 8. No corresponding hypothesis had been offered. The results, plotted in Figure 6, show that arousal reactions to achromatic colors were a U-shaped function of brightness: Arousal response was greatest to black, diminished steadily for the three successive greys of increasing brightness, but increased to an intermediate value for white. Figure 6 also shows that the obtained arousal means for all five levels of brightness were predicted extremely well by Equation 8.

The relationship of dominance to brightness of achromatic colors is given in Equation 9. A negative relationship

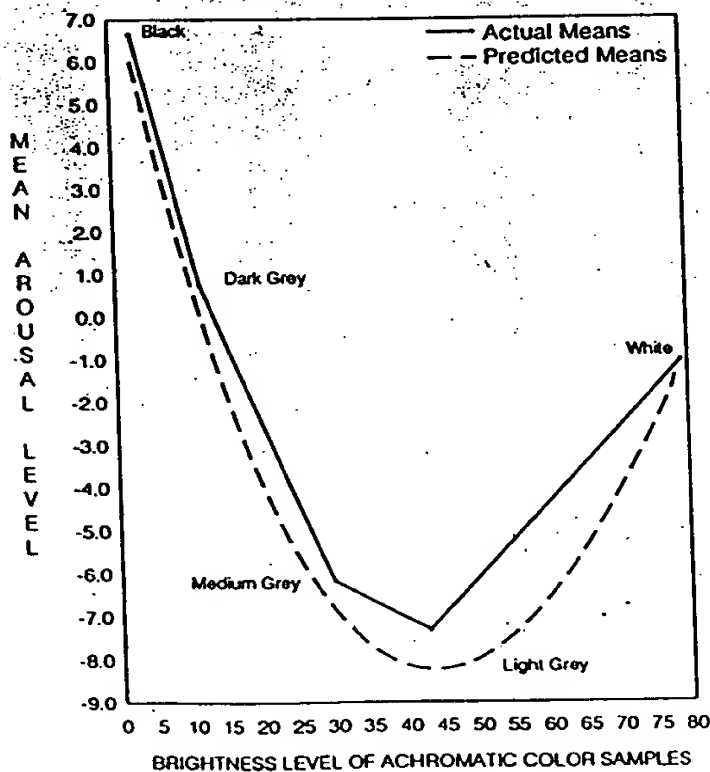


Figure 6. Actual and predicted average arousal levels as functions of brightness of achromatic colors in Study 3.

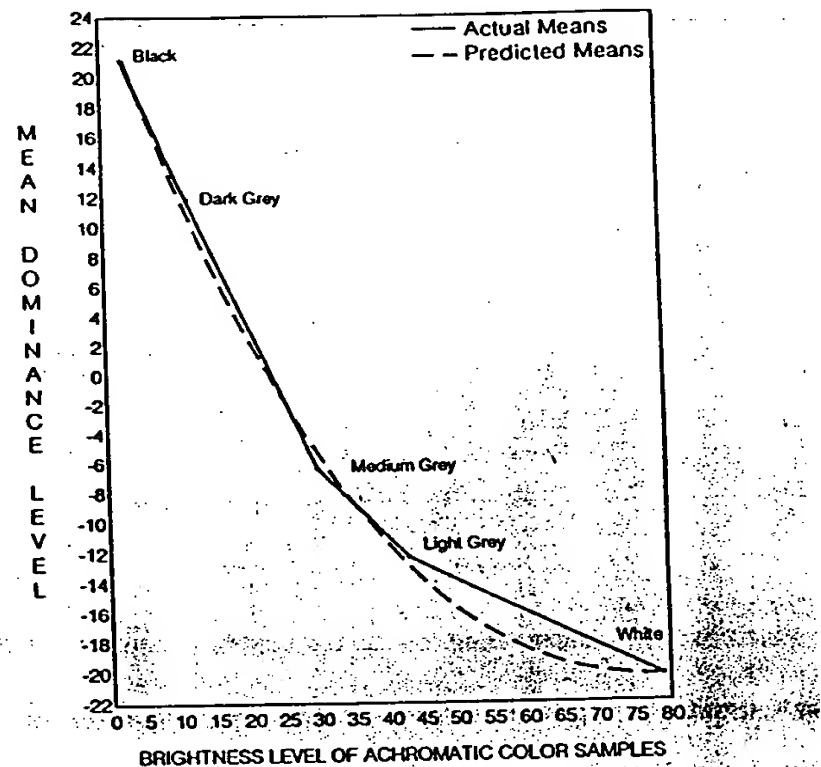


Figure 7. Actual and predicted average dominance levels as functions of brightness of achromatic colors in Study 3.

between dominance and brightness had been hypothesized. Results plotted in Figure 7 support this hypothesis but show the relationship to be parabolic: Although dominance decreased monotonically with increasing brightness, the slope became less steep for brighter colors. Thus, the color black elicited the highest level of dominance, greys elicited intermediate levels of dominance, and white elicited the lowest level of dominance. Figure 7 also shows that the obtained dominance means for all five levels of brightness were predicted extremely well by Equation 9.

General Discussion

Summary of Major Findings

The present studies provided highly consistent evidence regarding strong and highly predictable relationships of color brightness and saturation to emotional reactions. In comparison, relationships of hue to emotions were surprisingly weak, particularly for arousal and dominance reactions.

Effects of Brightness and Saturation

Results given in linear Equations 1-3 (or in Table 1) provided a surprisingly accurate description of the effects of color brightness and saturation on emotions. In addition,

Figures 1 and 2 provide further refinements regarding effects of very high brightness (i.e., the lightest colors).

Pleasure was simply a joint positive function of color brightness and saturation, being influenced more by brightness than by saturation. Arousal increased linearly and strongly with color saturation. Also, arousal was a ladle-shaped function of color brightness: It decreased with increases in color brightness up to a Munsell brightness value of 43. Beyond that brightness level, arousal reversed and increased slightly for the highest level of brightness tested (Figure 1).

Dominance increased linearly and moderately with color saturation and decreased sharply with increases in color brightness up to a Munsell brightness value of 43. Dominance leveled off beyond that brightness level (Figure 2).

Findings for the effects of brightness of achromatic colors in Study 3 were very similar to those obtained for chromatic colors in Study 1, which are summarized above. Pleasantness of achromatic colors correlated .71 with brightness (as compared with a corresponding beta weight of .69 in Equation 1 for chromatic colors). As shown in Figure 6, arousal reactions to achromatic colors were a ladle-shaped function of brightness, paralleling the corresponding relationship shown in Figure 1 for chromatic colors. Dominance reactions to achromatic colors, shown in Figure 7, were a monotonically decreasing function of brightness and paralleled the corresponding relationship for chromatic colors shown in Figure 2.

Artists and designers have often distinguished "warm" versus "cool" colors and have assumed that warmer colors induce greater activity (e.g., Hogg, 1969). Mehrabian and Russell (1974, Ch. 4) reviewed findings showing that judgments of color warmth were highly reliable and that color warmth-coolness was a positive correlate of color saturation and a negative correlate of color brightness. The present findings did indeed show consistent patterns of response to cool colors (low saturation, high brightness) versus warm colors (high saturation, low brightness), supporting the more intuitive groupings and interpretations of colors offered by practitioners of the arts.

Effects of Hue

Findings in Study 2 regarding emotional reactions to color hue tended to be weak. Nevertheless, as shown in Figure 3, consistent support was obtained for proposed hypotheses relating pleasure to hue (or wavelength). Blue, blue-green, green, purple-blue, red-purple, and purple were the most pleasant; whereas yellow, green-yellow, and red-yellow were the least pleasant; with red being rated at an intermediate value of pleasantness.

In comparison, far weaker results were obtained relating hue to arousal or to dominance. The most arousing hue was green-yellow, followed by blue-green and green, whereas the least arousing hues were purple-blue, yellow-red, and red-purple (Figure 4). Finally, dominance reactions were greatest to green-yellow and yellow and differed from reactions to red-purple, which elicited submissive feelings.

The latter weak findings failed to support hypotheses bearing on the relationships of hue to arousal (no hypotheses had been offered for hue in relation to dominance). Findings bearing on color saturation and brightness in relation to arousal (Study 1) helped explain some of the common errors in assessing effects of hue on arousal. Examination of the Munsell color chips for each hue shows that there are systematic differences in saturation and brightness of colors considered typical or representative of each hue. For example, the samples of red that are commonly used in experiments are typically of very high saturation. This accounts for the common error in inferring that red is arousing. In fact, it is the high saturation of the red color samples used, rather than its hue, that accounts for the high levels of arousal observed.

Thus, many commonly held assumptions regarding the effects of color hue on arousal can be seen as being due to systematic confounding, in previous studies, of hue with brightness, saturation, or both, in assessing the arousing effects of hue. The hue-arousal hypotheses offered here were based primarily on physiological studies that assessed GSR reactions of subjects to rooms (or to slide projections) described as "green" or "red." All experiments that served as the basis for the proposed hypotheses failed to control for brightness and saturation effects in investigating effects of hue on arousal.

Theoretical Rationale for the Present Findings

A systematic theoretical explanation of the patterns of consensus reactions to color obtained here is beyond the scope of this paper. Nevertheless, it is useful to note Adams and Osgood's (1973) discussion of mechanisms that could explain consensus reactions to color—physiology of vision and commonly shared experiences with the environment. Their comments can be restated as follows in reference to the present findings. Physiological explanations are exemplified by the idea that photoreceptors may be stimulated more strongly by more saturated and darker colors, thus accounting for the association of such colors with high-arousal and high-dominance emotions. Common environmental experiences are illustrated by the association of clean and light-colored objects and their contrast with dirty and dark-colored ones. Although the latter are mere speculations, they may help identify fruitful avenues in the pursuit of a theoretical rationale to explain shared emotional reactions to color.

Implications Regarding the Emotion-State Measures

Assessments of emotional responses to color were reasonably comprehensive. We used the PAD emotion model and associated measures (Mehrabian, 1978, 1980); the PAD model was helpful in formulating general conclusions from previous experimental work that had used a large variety of apparently unrelated measures of emotional reactions to color.

Reliabilities of the PAD emotion scales were consistently high and satisfactory. Across all three studies, alpha reliability coefficients averaged .97 for the pleasure-displeasure scale, .80 for the arousal-nonarousal scale, and .91 for the dominance-submissiveness scale.

Validity of the PAD scales has been established in a large number of studies (e.g., Mehrabian, 1980, 1987). Indirect and tangential assessments of validity were provided here by the extent to which hypotheses derived from the literature were supported. With one exception, all hypotheses relating saturation and brightness to emotional reactions were supported. Failure to support the brightness-arousal hypothesis was explained readily by noting a systematic bias in the selection of highly arousing colors in previous experiments: Typically, experimenters have confounded high saturation with high brightness in investigating effects of brightness on arousal, thereby leading to the present incorrect hypothesis regarding that relationship.

A striking pattern of findings from the present studies also provided construct validity for the PAD scales. Study 1 yielded relationships of color brightness to pleasure, arousal, and dominance for a large sample of chromatic colors. In comparison, Study 3 provided the same relationships for a sample of achromatic colors. As noted in the summary of findings above, these findings for chromatic and achromatic colors were analogous. The similarity of color brightness-emotional reaction relationships in Studies 1 and 3, despite nonoverlapping samples of subjects and stimuli, provided strong evidence not only of replicability of the present findings but also of construct validity of the measurement instruments.

A final issue bearing on the PAD measures pertains to affect-cognition relationships. The adequacy and relevance of verbal-report measures for assessing emotional reactions to color may be questioned. In particular, one may argue that such reports can be attributed to cognitive reactions (e.g., learned conceptual associations to color names) rather than to physiological or visceral responses. A narrow answer to this argument is that the experimental procedure was designed deliberately to elicit emotional, rather than cognitive, reactions to the colors. Thus, no references to color names were made, and subjects were presented simply with various color samples and asked, specifically, to indicate how each sample made them *feel*.

On a more general level, although our procedures focused on emotions, the theoretical basis of the PAD emotion model suggests strong associations between cognition and affect. Indeed, the PAD scales are analogues of the Evaluation, Activity, and Potency factors which, in turn, may be characterized as the lowest common denominators of cognitive response. Thus, within the PAD model, the most rudimentary cognitive judgments (such as those that adult humans share with infants or animals) cannot be distinguished easily from emotional reactions. Instead, emotional responses are viewed as providing the essential foundation to cognitive judgments (i.e., attitudes, judgments, or preference are not considered possible in an emotional vacuum).

The association between affect and cognition is likely to be strongest in psychological functions that develop without

the benefit of instruction or formal education (i.e., where cognition is unsophisticated and rudimentary). Because reactions to colors or odors exemplify such functioning, using the PAD scales to measure reactions to color is likely to produce emotion-based assessments.

Sex Differences

Results in Study 1 (Table 1) showed that men and women responded with highly similar emotional reactions to variations in color saturation and brightness. However, a small, though consistent and statistically significant, difference showed that women were more sensitive to brightness and saturation than men; that is, they exhibited more extreme emotional reactions to varying levels of color brightness and saturation.

Results in Study 2 showed that the multivariate Hue \times Sex interaction on pleasure, arousal, and dominance was not significant. Thus, we inferred that men and women responded with similar emotional reactions to various hues (or wavelengths).

Together, findings from Studies 1 and 2 showed that emotional reactions to colors tended to be surprisingly similar for men and women. Large differences in magnitudes of effects or dramatic reversals of effects were totally lacking when comparing men's and women's reactions to colors.

Generalizability of Findings

A weak case for generalizability of findings can be made from findings in Study 1 that showed more saturated colors elicited greater feelings of arousal. Certain colors have been shown to elicit higher levels of GSR, pulse rate, or blood pressure in laboratory situations. Our preceding discussion suggested that the color samples that have been used (typically, red vs. green) also have exhibited differences in saturation values. Thus, more saturated colors (e.g., highly saturated red rooms or 3-ft \times 5-ft [0.9-m \times 1.5-m] projections of red) have elicited greater levels of arousal than have the less saturated greens used in the studies.

Findings relating brightness to emotions in Studies 1 and 3 provided a much stronger case regarding generalizability of the present findings to situations outside the laboratory. Findings in both studies showed that brighter colors (e.g., whites, light greys, or lighter colors) are more pleasant, less arousing, and less dominance-inducing than are the less bright colors (e.g., dark greys, blacks, and darker colors).

Using the abbreviations P for pleasure, A for arousal, and D for dominance, the effect of brightness is thus summarized as follows:

$$\text{Brightness} = +P - A - D \quad (10)$$

or

$$\text{Darkness} = -P + A + D. \quad (11)$$

The constellation $-P + A + D$, elicited by dark colors, represents emotions such as anger, hostility, or aggression.

For instance, Mehrabian and O'Reilly (1980) obtained Equation 12 for Jackson's (1967) measure of aggression, and Russell and Mehrabian (1974) obtained Equation 13 for anger.

$$\text{Aggression} = -.36 P + .20 A + .28 D \quad (12)$$

$$\text{Anger} = -.74 P + .36 A + .09 D \quad (13)$$

Thus, one generalization from the present findings is that darker colors are likely to elicit feelings that are similar to (or weaker variants of) anger, hostility, or aggression. Darker colors are also expected to elicit feelings that constitute components of aggression, anger, or hostility (e.g., displeasure, high arousal, or dominance).

Results obtained by Frank and Gilovich (1988) were consistent with the preceding formulations. Black uniforms, compared with nonblack uniforms, not only were associated with greater degrees of perceived aggression but also led to higher levels of aggressive behavior. Also, Damhorst and Reed (1986) showed that models wearing dark jackets were rated as more powerful and more competent than models wearing light jackets. Indeed, brightness of clothing had a stronger effect than facial expressions on viewer perceptions of potency. Thus, Damhorst and Reed's findings were also consistent with the present results in that they both show that darker colors are associated with greater dominance.

A third example of generalization from the present findings bears on reports from correctional facilities regarding the calming and aggression-reducing effects of Baker-Miller pink (Schauss, 1981). The color sample we used in the present studies that is closest to Baker-Miller pink is a bright, low-saturation, red-purple. Red-purple was shown to elicit low arousal levels (Figure 4), brighter colors were less arousing (Table 1), and less saturated colors were less arousing (Table 1). Thus, by virtue of its high brightness, low saturation, and red-purple hue, Baker-Miller pink was shown in the present studies to elicit low levels of arousal.

In addition, bright and low-saturation colors were shown here to elicit low levels of dominance (Table 1). Furthermore, the hue red-purple received the lowest score on dominance (Figure 5). Thus, Baker-Miller pink was shown here to also elicit low levels of dominance. Insofar as reductions of arousal and of dominance tend to reduce aggression or anger (note Equations 12 and 13), the preceding observations of inmates in correctional facilities, then, provide an interesting case for generalization of the present findings to real-life situations.

In a similar vein, Weller and Livingston (1988) found that subjects were less upset when they read about murder or rape printed on pink paper rather than on blue or white paper. Thus, pink elicited less anxiety or anger than blue or white; this is again consistent with the present findings.

Overall, then, evidence available from studies that have used a variety of color stimuli (including colored objects, rooms, or clothing), when interpreted within the PAD Emotion Model, tends to be consistent with results obtained in the present studies. Thus, we conclude tentatively that our

results can be generalized to color stimuli encountered in everyday situations.

However, it is noteworthy that the context in which color is used can have a substantial bearing on generalizability of the present findings. Although the present data indicated blue to be a pleasant color, blue hair or blue food, for instance, are not expected to elicit pleasant reactions. On the contrary, such stimuli may elicit unpleasant reactions because of the inappropriateness of the color on the particular stimulus (hair or food). Thus, findings given here are expected to have relevance only in situations in which colors are reasonable and probable elements of those situations.

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Figure 1-5
Max Wertheimer



Max Wertheimer was the founder of Gestalt psychology. His guiding principle was that mental con-



tent and behavior are different from the sum of their parts.

Gestalt Psychology

Gestalt psychology was a different kind of reaction to structuralism. The Gestalt movement began in Germany in the early part of the twentieth century, about the same time as behaviorism began to dominate American psychology. Gestalt psychology is a broad, research-oriented point of view toward behavior. It is not to be confused with a recent innovation in psychotherapy called Gestalt therapy (see Chapter 12). The German word *Gestalt* has no exact English translation. Roughly speaking, it means form or organized whole, reflecting the emphasis of this school on organizational processes in behavior. Whereas the focal problem of behaviorism was learning, Gestalt psychologists chose primarily to work with perceptual problems and sought to prove Wundt wrong in the very area that Wundt

himself chose to emphasize. As a result, Gestalt theory is often identified as a theory of perception—although its principles are logically applicable to a broad range of psychological issues.

Behaviorists, like the structuralists, accepted the basic scientific idea that complex phenomena had to be analyzed into their simpler parts before they could be understood. The main proponents of Gestalt psychology, Wolfgang Köhler (1887–1967), Kurt Koffka (1886–1941), and Max Wertheimer (1880–1943), opposed the structuralists' efforts to reduce experience to a small set of fundamental component parts. They seized on other ideas from physical science, particularly the notions of field theory in physics, arguing that the whole of a phenomenon is different from the sum of its parts (see Figure 1-5). For example, from a series of still

pictures, you perceive continuity of action in a movie. There is movement even in the neon lights on a theater marquee. Both of these effects are based on the phenomenon of *apparent movement*, identified by early Gestalt psychologists. Figure 1-6 shows another example of how perception of a whole can differ from perceptions of its parts.

Gestalt theory can be applied to nearly all important forms of behavior. Köhler, for example, argued that learning and problem solving, like perception, are largely a function of organizational processes. How to behave in a particular situation may elude subjects until they see the various components of the task in their appropriate relationship. The situation is a problem primarily because the correct or necessary relationship among the elements is not easily seen. The subject's behavior may take the form of overt trial and error or covert "thought." But the subject must take a variety of perspectives on the situation until the correct one emerges. When it does emerge, the subject experiences a "moment of insight." Finally the problem is solved and, in a flash, the subject knows what to do. Notice the persistent use of terms related to perception, such as "seeing," "perspective," and "experience," in the foregoing description. This is a consistent theme within Gestalt explanations of behavior. Note also the implication that learning and problem solving are "all-or-none," insightful processes. This is another major principle that distinguishes Gestalt psychology from other theoretical attempts to deal with learning.

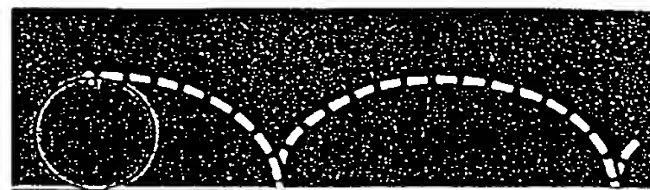
From many examples like those given above, the Gestalt school argued against the utility of describing integrated human action by a mere analysis of component parts. They were concerned with the completeness, the continuity, and the meaningfulness of behavior as a whole.

Psychoanalysis

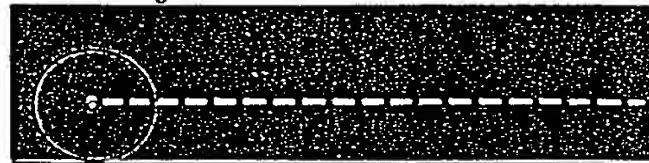
Psychoanalysis, the theoretical point of view identified with Sigmund Freud (1858-1939), was less a reaction to structuralism than an effort to apply science and medicine to the study and treatment of abnormal behavior. (Several portraits of Freud appear on page 353 in Chapter 9.) Psychoanalysis has been called the third great intellectual blow to human pride. First, we human beings found that we are not at the

Figure 1-6

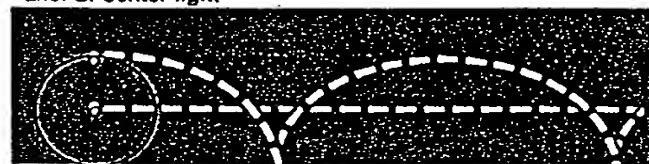
The Gestalt approach to perception



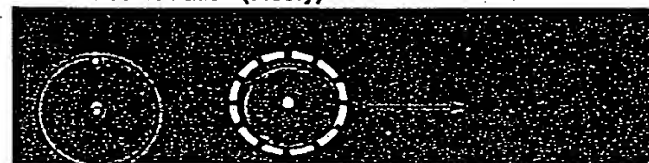
Panel A: rim light



Panel B: center light



Panel C: combination (theory)



Panel D: what subjects actually see

Here is an interesting perceptual effect that demonstrates one of the basic Gestalt principles of perception. It suggests that we do not perceive an event merely by adding up the perceptions that we have of the separate parts. A wheel is rolled from left to right across a table in a dark room. In the top panel, a light is attached to the rim of the wheel and the dashed line indicates what subjects perceive. The second panel shows our perception of a light attached at the center of the wheel. Panel C indicates what the geometric sum of the motions of the rim light and center light should look like. Panel D is what subjects *actually* perceive.

center of the universe; then, we discovered that we are descended from apes; and, finally, Freud argued that we are basically controlled by impulses, many of which are buried in the unconscious, below the level of awareness. The view that human beings are rational and in conscious control of their behavior was weakened when Freud described the behavioral impact of early

EXHIBIT C - ASSIGNMENT DOCUMENTS

- 1. Employee and Consultant Patent and Confidential Information Agreement signed by Engineer David Pitcher (1 page).**
- 2. Notice of Recordation of Assignment Document, Recordation Form Cover Sheet, and Assignment Agreement signed by the Applicant Noel Lee in favor of Monster Cable Products, Inc. (4 pages).**

Monster Cable Products, Inc.

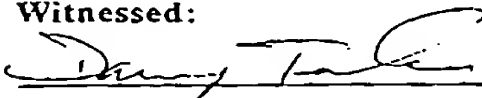
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In consideration of my employment or consultation agreement with Monster Cable Products, Inc. (hereinafter, "Monster") and/or its predecessors or successors in business, and of the payment of wages or fees during the continuance of such employment or consultation, I hereby agree:

1. To disclose promptly and fully to Monster or its nominee, all inventions, improvements or discoveries made or conceived by me, solely or jointly with others, in the course of such employment or consultation or with the use of Monster's time, material or facilities, or related to or suggested by the business, work or instigations of Monster, or of the companies it owns or controls at the time of such inventions.
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4. Not to disclose directly or indirectly to any unauthorized person without Monster's prior written permission at any time during or subsequent to my employment or consultation all knowledge not already available to the public which I acquire during the course of my employment or consultation with Monster including, but not limited to, invention; designs; methods; systems; improvements; new projects; marketing information and strategies; source of suppliers; sales figures; advertising, marketing or promotive strategies; trade secrets, customer information, or other private or confidential matters acquired in the course of my employment or consultation.
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Date

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LEE, NOEL

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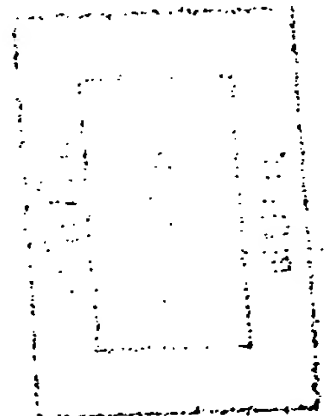
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MONSTER CABLE PRODUCTS, INC.
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BRISBANE, CALIFORNIA 94005-1209

SERIAL NUMBER: 60070317
PATENT NUMBER:

FILING DATE: 01/02/1998
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NOEL LEE

2. Name and address of receiving party(ies):

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Internal Address:

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment

☐ Merger

☐ Security Agreement

☐ Change of Name

☐ Other

Execution Date: June 3, 1998

Street Address: 455 Valley Drive

City: Brisbane State: CA Zip: 94005-1204

Additional name(s) of receiving party(ies) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

60/070317

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed

Name: Victor Flores

Internal Address: LaRiviere, Grubman & Payne

P800

Street Address: 4 Justin Court, Suite A

P.O. Box 3140

City: Monterey State: CA Zip: 93942

6. Total number of applications and patents involved:

One

7. Total fee (37 CFR 3.41): \$ 40.00

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☐ Authorized to be charged to deposit account

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Victor Flores

Name of Person Signing

Signature

June 23, 1998

Date

Total number of pages comprising cover sheet: 1

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26/1998 INVENTOR 00000131 6070317
01 JUL 1998

ASSIGNMENT AGREEMENT

FOR good and valuable consideration, receipt of which is hereby acknowledged, NOEL LEE, hereinafter ASSIGNOR, does hereby sell, assign and transfer unto MONSTER CABLE PRODUCTS, INC., doing business at 455 Valley Drive, Brisbane, CA 94005-1209, hereinafter ASSIGNEE, its successors and assignees, the entire title, interest and right, including the right of priority, in an application for Letters Patent of the United States entitled APPARATUS AND METHOD FOR POWERING MULTIPLE PERIPHERAL DEVICES FROM A CENTRAL POWER SOURCE, filed herewith, and the inventions and any of them therein set forth and described, and any and all Letters Patent of the United States and of countries foreign thereto which may be granted thereon or therefor, and any and all provisional, divisional, reissue, continuation, substitute or renewal applications thereof which have been or shall be filed in the United States and any and all equivalents thereto in any and all foreign countries;

And for the above consideration ASSIGNOR covenants to assign to ASSIGNEE, under identical terms herein, any and all improvements which have been or shall be developed by ASSIGNOR regarding subject matter herein:

And for the above consideration ASSIGNOR agrees promptly upon request of the ASSIGNEE, its successors and assignees, to execute and deliver without further compensation any power of attorney, assignment, application (whether original, continuation, renewal, substitute, divisional or reissue) or other papers which may be necessary or desirable fully to secure to ASSIGNEE, its successors and assignees, the inventions and any of them described in said application and patent rights therein, in the United States and in any country foreign thereto, and to cooperate and assist in the prosecution of appeal and interference proceedings involving said inventions and/or in the adjudication or re-examination of said Letters Patent, provided that the expenses which may be incurred by ASSIGNOR in lending such cooperation and assistance be paid by ASSIGNEE; and

ASSIGNOR covenants that no assignment, grant, mortgage, license, or other agreement affecting the rights and property herein conveyed has been made to others by ASSIGNOR, and that full right to convey the same as herein expressed is possessed by ASSIGNOR.

This agreement constitutes the entire agreement of the parties and supersedes and cancels any and all prior and/or contemporaneous utterances, statements, representation, understandings

and/or agreements whether oral and/or written in connection with this agreement.

IN WITNESS WHEREOF, ASSIGNOR agrees to the above-mentioned terms and conditions as evidenced by their signatures below:

6/3/98
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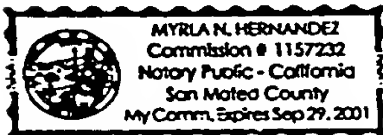
COUNTY OF San Mateo

On June 3rd, 1998, before me, Myrla N. Hernandez,
personally appeared Nicol Lee

X personally known to me

OR _____ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same in his(her) authorized capacity, and that by his(her) signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Myrla N. Hernandez
Notary Public

EXHIBIT D - CORPORATE DOCUMENTS

- 1. Monster Cable Products, Inc. Consolidated Financial Statements (Relevant Excerpts, 2 pages).**
- 2. Monster Cable International, Inc. (Subsidiary) Stock Certificate held by Monster Cable Products, Inc. (Parent) (1 page).**



**MONSTER CABLE PRODUCTS, INC.
AND SUBSIDIARIES**

**Consolidated Financial Statements
and Supplemental Consolidating Information**

December 31, 2000 and 1999

(With Independent Auditors' Report Thereon)

No. 11

--7,200-- Shares

Registered in the Islands of Bermuda under The Companies Act, 1981

Monster Cable International, Ltd.

PAR VALUE OF SHARES US\$1.00 EACH

THIS IS TO CERTIFY THAT Monster Cable Products Inc.

of 455 Valley Drive, Brisbane, California 94005, USA

is the registered holder

of --Seven thousand and two hundred----- shares of U.S. Dollar One each

Fully paid in the above named Company, subject to the Memorandum of Association and the bye-laws of the said Company, transferable in accordance therewith.

Given under the Common Seal of the Company this

9th day of January

1981

President

Director

Secretary

HASBROUCK THISTLE & CO NEW YORK

MONSTER CABLE PRODUCTS, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

December 31, 2000 and 1999

(1) Nature of Business

Monster Cable Products, Inc. and subsidiaries (the Company) manufacture and distribute a variety of audio, video, and computer cables; connectors; and related electronic materials for home and commercial use. The Company sells products throughout the world, and has operations based in the United States and Bermuda. The Company is owned by a sole shareholder and, effective January 1, 1997, elected to be treated under Subchapter S of the Internal Revenue Code.

(2) Summary of Significant Accounting Policies

(a) *Principles of Consolidation*

The accompanying consolidated financial statements include the financial statements of Monster Cable Products, Inc. and its wholly owned subsidiary, Monster Cable International, Ltd., a Bermuda corporation and parent of Monster Cable Products Israel, Ltd. (MCPI). All significant intercompany balances and transactions have been eliminated in consolidation.

(b) *Revenue Recognition*

Revenue from sales of products is recognized, net of estimated returns, when persuasive evidence of an agreement exists, delivery of the product has occurred, the price is fixed or determinable and collectibility is probable.

(c) *Use of Estimates*

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting periods. Actual results could differ from those estimates.

(d) *Short-Term Investments*

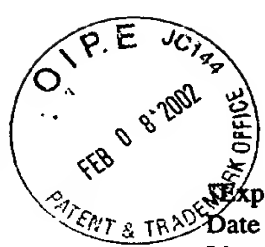
As of December 31, 2000 and 1999, the Company classifies its short-term investments in a mutual fund as available-for-sale pursuant to Statement of Financial Accounting Standards (SFAS) No. 115, *Accounting for Certain Investments in Debt and Equity Securities*. Available-for-sale securities are carried at fair market value. Any unrealized gains or losses, net of tax, are recorded as a component of other comprehensive income (loss), which was not significant as of December 31, 2000 and 1999. The cost of investments sold is determined on the specific-identification method.

(e) *Inventories*

Inventories are stated at the lower of cost or market. Cost is determined using the first-in, first-out method.

EXHIBIT E - DECLARATIONS

- 1. Declaration of Inventor Noel Lee (Monster Cable), under 37 C.F.R. 1.131 (3 pages + exhibit).**
- 2. Declaration of Inventor Noel Lee (Monster Cable), under 37 C.F.R. 1.132 (2 pages + exhibit).**
- 3. Declaration of Retailer Karen Johnson (Good Guys), under 37 C.F.R. 1.131 (2 pages + exhibit).**
- 4. Declaration of Expert Witness Dr. Albert Mehrabian, under 37 C.F.R. 1.132 (7 pages).**



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Typed or Printed Name of Person Mailing Paper or Fee: Shirley Fajardo

Signature: Shirley Fajardo

PATENT
Docket No. P1230

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: NOEL LEE

SERIAL NO.: TO BE ASSIGNED

FILED: DECEMBER 12, 2000

FOR: APPARATUS AND METHOD FOR POWERING MULTIPLE
PERIPHERAL DEVICES FROM A COLOR-CODED CENTRAL
POWER SOURCE

BOX PATENT APPLICATION
ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

DECLARATION UNDER 37 C.F.R. 1.131(a)

Dear Sir:

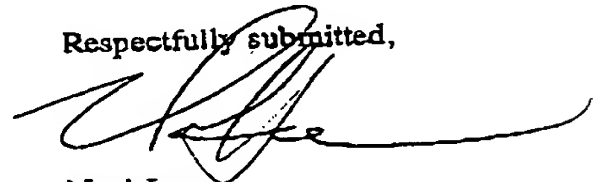
I, Noel Lee, declare as follows:

1. I am the inventor of the subject matter of the above-identified patent application.
2. I received a Bachelor of Science degree in Mechanical Engineering in 1971 from California Polytechnic University San Luis Obispo in San Luis Obispo, California.
3. My occupational experience includes serving as Chief Executive Officer of Monster Cable Products, Inc. (1983-present) and as a Laser-Fusion Design Engineer at Lawrence Livermore Laboratories (1971-1976).

4. I have received the following honors:
Northern California Entrepreneur of the Year Award from Ernst & Young (June 23, 2000);
Distinguished Corporate Executive Award from the Asian Business League of San Francisco (June 22, 1996); and
Small Business Owner of the Year Award from the San Francisco Small Business Network Dealerscope Consumer Electronics Marketplace Magazine's Hall of Fame (June 5, 1997).
5. I have invented the present invention which utilizes human factors considerations. The present invention, entitled APPARATUS AND METHOD FOR POWERING MULTIPLE PERIPHERAL DEVICES FROM A COLOR-CODED CENTRAL POWER SOURCE, comprising a solid color-coded device having peripheral device identification, provides a solid color image which is easier to see and recognize than the cited art patterned image (striped and ringed) devices, and therefore, better facilitates correct connection of the peripheral devices to the color-coded housing areas.
6. The Kensington invention, cited by the Examiner, is believed to be an attempt to copy the present invention by a former employee, engineer David Pitcher, who was employed by Monster Cable Products, Inc. from April 24, 1991, through January 28, 1994. Engineer David Pitcher was subsequently employed as a consultant to Monster Cable Products, Inc. for approximately one year thereafter (i.e., ~ January 1995). David Pitcher had full access to Monster Cable Products' proprietary information regarding conception and reduction to practice of the present invention (See hereto attached Exhibit A containing a proprietary drawing of the present invention signed by David Pitcher and dated July 28, 1994). Therefore, the invention is believed to have been commonly owned at the time the invention was made. David Pitcher has been subsequently employed by Kensington and was directly involved in the subsequent development of the cited Kensington SmartSockets Strip Model and Adapter Model.

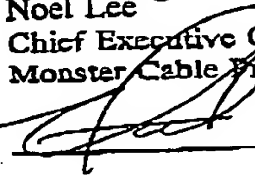
7. I conceived of the present invention in May, 1993, antedating the printed publication disclosing the Kensington invention. The first commercially viable prototype was manufactured by Monster Cable Products, Inc. in September, 1997, generally in accordance with the proprietary drawing contained in hereto attached Exhibit A.
8. I further declare that all statements made herein of my own knowledge are true and that all statements made on information are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-references application or any patent issuing thereon.

Respectfully submitted,

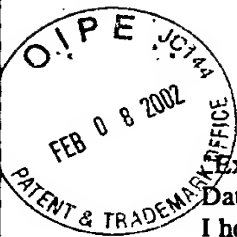


Noel Lee
Chief Executive Officer
Monster Cable Products, Inc.

Date:

 Nov. 16, 2000

NL:mld
November 16, 2000
LARIVIERE, GRUBMAN & PAYNE, LLP
Post Office Box 3140
Monterey, CA 93942
(831) 649-8800



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Typed or Printed Name of Person Mailing Paper or Fee: Shirley Fajardo

Signature: Shirley Fajardo

PATENT
Docket No. P1230

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: NOEL LEE

SERIAL NO.: TO BE ASSIGNED

FILED: DECEMBER 12, 2000

FOR: APPARATUS AND METHOD FOR POWERING MULTIPLE
PERIPHERAL DEVICES FROM A COLOR-CODED CENTRAL
POWER SOURCE

BOX PATENT APPLICATION
ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

DECLARATION UNDER 37 C.F.R. 1.132

Dear Sir:

I, Noel Lee, declare as follows:

1. I am the inventor of the subject matter of the above-identified patent application.
2. I received a Bachelor of Science degree in Mechanical Engineering in 1971 from California Polytechnic University San Luis Obispo in San Luis Obispo, California.
3. My occupational experience includes serving as Chief Executive Officer of Monster Cable Products, Inc. (1983-present) and as a Laser-Fusion Design Engineer at Lawrence Livermore Laboratories (1971-1976).

4. I have received the following honors:
Northern California Entrepreneur of the Year Award from Ernst & Young (June 23, 2000);
Distinguished Corporate Executive Award from the Asian Business League of San Francisco (June 22, 1996); and
Small Business Owner of the Year Award from the San Francisco Small Business Network Dealerscope Consumer Electronics Marketplace Magazine's Hall of Fame (June 5, 1997).
5. I have invented the present invention which utilizes human factors considerations. The present invention, APPARATUS AND METHOD FOR POWERING MULTIPLE PERIPHERAL DEVICES FROM A COLOR-CODED CENTRAL POWER SOURCE, comprising a solid color-coded device having peripheral device identification, provides a solid image which is easier to see and recognize than the cited art patterned image (striped and ringed) devices, and therefore, better facilitates correct connection of the peripheral devices to each color-coded housing portion.
6. The Kensington invention, cited by the Examiner, is believed to be an attempt to copy the present invention by a former employee, engineer David Pitcher, who was employed by Monster Cable Products, Inc. from April 24, 1991 through January 28, 1994. Engineer David Pitcher was subsequently employed as a consultant to Monster Cable Products, Inc. for approximately one year thereafter (i.e., ~ January 1995). David Pitcher had full access to Monster Cable Products' proprietary information regarding conception and reduction to practice of the present invention (See hereto attached Exhibit A containing a proprietary drawing of the present invention signed by David Pitcher and dated July 28, 1994). Therefore, the invention is believed to have been commonly owned at the time the invention was made. David Pitcher has been subsequently employed by Kensington and was directly involved in the subsequent development of the cited Kensington SmartSockets Strip Model and Adapter Model.

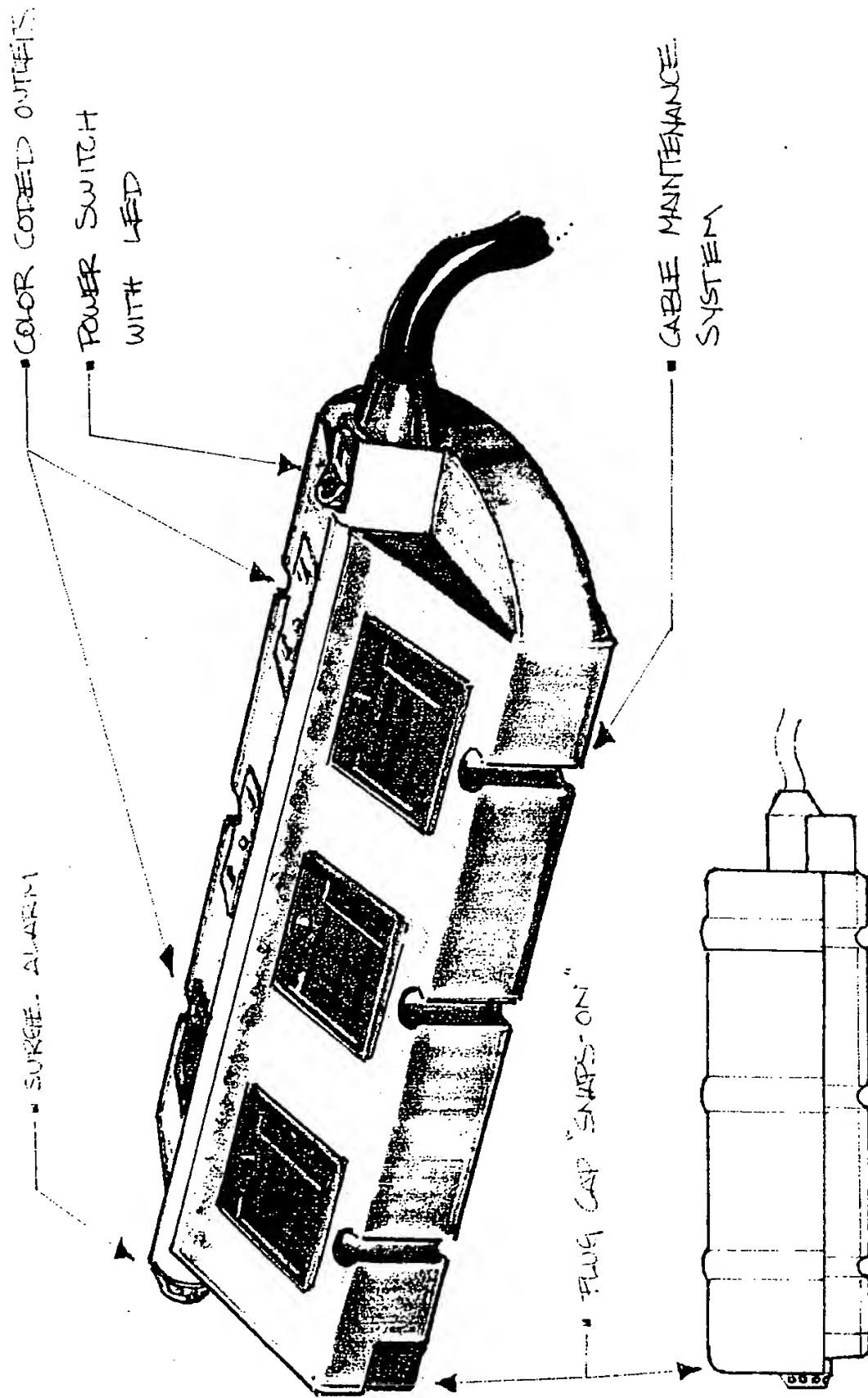
7. A need for a solid color-coded central power source has been long felt in the electronic components industry. Although stymied by the peripheral device connection confusion imparted by plain plug strips, the industry had made no progress toward any solution to the problem. No other manufacturer has been known to have made a solid color-coded central power supply having peripheral device identification prior to my invention. Further, the present invention is currently experiencing record sales and has dominated the market sector in the area of plug strips both domestically and in Asia. In addition, two large retailers, Good Guys™ and Sound Advice™ have completely discontinued sales of the competitor's plug strip (Panamax™) and are exclusively carrying only the present invention central power supply (See Exhibit B containing Monster Cable Products, Inc.'s sales figures; also see herewith submitted Declaration under Rule 132 of Karen Johnson for Good Guys, Inc.).
8. I further declare that all statements made herein of my own knowledge are true and that all statements made on information are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-references application or any patent issuing thereon.

Respectfully submitted,


Noel Lee
Chief Executive Officer
Monster Cable Products, Inc.

Date: Nov. 16, 2000

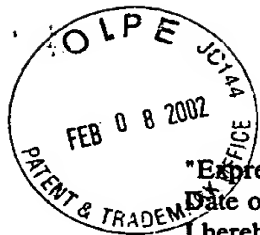
NL:mld
November 16, 2000
LARIVIERE, GRUBMAN & PAYNE, LLP
Post Office Box 3140
Monterey, CA 93942
(831) 649-8800



SEE PROFILE

MONSTER POWER PLATE

7-18-94



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Typed or Printed Name of Person Mailing Paper or Fee: Shirley Fajardo

Signature: Shirley Fajardo

PATENT
Docket No. P1230

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APPLICANT: NOEL LEE

SERIAL NO.: TO BE ASSIGNED

FILED: DECEMBER 12, 2000

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PERIPHERAL DEVICES FROM A COLOR-CODED CENTRAL
POWER SOURCE

BOX PATENT APPLICATION
ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

DECLARATION UNDER 37 C.F.R. 1.132

Dear Sir:

I, Karen Johnson, declare as follows:

1. I am employed by the Good Guys, Inc., a major retailer of the product which constitutes the subject matter of the above-identified patent application.
2. As Manager of Accessories and Media, I have been involved in the buying of the Monster product for our electronics retail chain stores.

3. A need for a solid color-coded central power source has been long felt in the electronic components retail industry. Although retail consumers have been stymied by the peripheral device connection confusion imparted by plain plug strips, the manufacturing industry had made no progress toward the Monster solution as no other manufacturer was known to have made a solid color-coded central power supply having peripheral device identification prior to the present invention. Further, the Monster product is currently experiencing record sales through our retail chain and has dominated the market sector in the area of plug strips. In addition, we have completely discontinued sales of the competitor's plug strip (Panamax™) and are exclusively carrying only the Monster color-coded central power supply (See Exhibit A containing our retail sales figures and market share data).
4. I further declare that all statements made herein of my own knowledge are true and that all statements made on information are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-references application or any patent issuing thereon.

Respectfully submitted,

Karen Johnson
Manager of Accessories and Media
Good Guys, Inc.

Date: 

KJ:mlid
November , 2000
LARIVIERE, GRUBMAN & PAYNE, LLP
Post Office Box 3140
Monterey, CA 93942
(831) 649-8800

EXHIBIT A

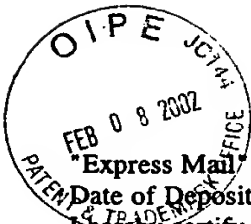
Sales Figures by Good Guys, Inc.

**Monster Cable Products, Inc.
Model Number**

No. Units Sold

Total Sales

MP AV600	13,953	\$265,349.11
MP AV800 RP	5,643	\$272,988.14
MP HT800 HP	9,877	\$744,682.61
MPHTS800 HP	2,184	\$204,776.97



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POWER SOURCE

BOX PATENT APPLICATION
ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

DECLARATION UNDER 37 C.F.R. 1.132

Dear Sir:

I, Dr. Albert Mehrabian, declare as follows:

1. I am an expert in the areas of Environmental Psychology and Social Psychology.
2. I received a Bachelor of Science degree and a Masters of Science degree in Mechanical Engineering in 1961 from the Massachusetts Institute of Technology (MIT) in Cambridge, Massachusetts. Thereafter, I was awarded the degree Doctor of Philosophy in Psychology in 1964 from Clark University in Worcester, Massachusetts.

3. My occupational experience includes serving as:
Psychology Intern, Worcester State Hospital (1963-1964);
Consultant, Veterans' Administration (1968-1973);
Chairman of Graduate Admissions Committee, UCLA Department of Psychology (1968-1970);
Chairman of Staffing Committee, UCLA Department of Psychology (1987-1994);
Assistant Professor of Psychology, UCLA Department of Psychology (1964-1970);
Associate Professor of Psychology, UCLA Department of Psychology (1970-1976);
Professor of Psychology, UCLA Department of Psychology (1976-1994); and
Professor Emeritus of Psychology, UCLA Department of Psychology (1994-present).
4. My editorial experience includes serving as:
Consulting Editor, Journal of Personality and Social Psychology (1973-1976);
Consulting Editor, Sociometry (1974-1977);
Member of Editorial Board, Journal of Nonverbal Behavior (1975-1986);
Member of Editorial Board, Journal of Psycholinguistic Research (1971-1995); and
Consulting Editor, The Journal of Psychology (1999-present).
5. My research expertise includes psychological measurement; statistical computing and theoretical analysis of complex data; authoring general theoretical models for description and measurement of personality, temperament, psychopathology, emotions, nonverbal communication, environments, or stimuli; man-environment relations (human factors); and improving worker productivity and morale.
6. My communications experience include authoring approximately 150 research publications (including 13 technical and mass market books); public speaking; teaching; and serving as a research supervisor.

7. I have received honors including:

Mention Among 100-Most Cited Psychologists (Amer. Psych., 1978, v. 33, 1064-1082);

One of 57 Eminent Psychologists Surveyed (Amer. Psych., May 1984, 556-559); and
"Nonverbal Communication" book selected as a citation classic by Current Contents (1984).

8. I have evaluated the present invention and the cited art with respect to human factors.
My findings are as follows:

Psychological Significance of Solidly Colored Surfaces of High Chroma (Saturation):

One feature of the present invention is its use of different **solid** colors of high chroma (i.e., high color saturation) to identify each power outlet on the power strip together with corresponding **solid** colors for cables and labels. Patent Number 5,775,935, in contrast, does not use solid colors, but uses color shading with colored lines or dots to identify outlets. Psychologically, there is a substantial advantage in using solid colors of high chroma (i.e., high purity or vividness of color), as in the present invention. The reason for this is that solid surfaces of a single high-chroma color elicit very high levels of arousal or attention. Put another way, solid high-chroma surfaces provide strong visual **stimulation** in humans.¹

The high stimulation value of each solid high-chroma surface is also helpful when different high-chroma solid colors are juxtaposed next to one another, thereby enhancing **perceptual discrimination or perceptual contrast** (i.e., easy separation or distinction) of differently-colored outlets, cables, or labels from each other. Such perceptual discrimination is less likely when a common underlying color (e.g., grey) forms the background color of all outlets (e.g., what appears to be a surface that is grey, white, or black throughout, but is color shaded with diagonal lines or colored

¹Patricia Valdez and Albert Mehrabian, Effects of Color on Emotions, Journal of Experimental Psychology: General, 123, pp. 394-409 (1994).

dots drawn over the background grey, white, or black (as in Patent 5,775,935, Fig. 3; col. 5, lines 7-10) or a large solid grey center in all outlets, with each grey-centered outlet surrounded with a narrow circumference of color (as in the Kensington device).

The Kensington device uses grey as the primary surface area of each outlet, with a narrow ring of color to surround that grey. Our laboratory study of chromatic and achromatic colors showed that the visual stimulation (arousal) value of high-chroma chromatic colors exceeds that of various shades of grey (which are achromatic colors).² Accordingly, perceptual discrimination of a multiplicity of outlets, at least eight (8) as in the present invention, is enhanced when **different** chromatic colors (not greys) are used and, furthermore, such discrimination is even greater when solidly colored surfaces are used (in contrast to the cited art that, as noted supra, appears to be color shading with lines of color or colored dots over an underlying surface that is grey, white, or black).

Considering that power strips are often located in out-of-the-way places (e.g., underneath desks or tables), they tend to be unexposed to direct lighting and are, thus, poorly or dimly lit. Under conditions of dim lighting, solid high-chroma colors are easier to see (are more arousing or perceptually stimulating) than color shaded surfaces (i.e., that appears to be patterned with color lines or dots, Patent 5,775,935, supra). Solid high-chroma colors (present invention) are also easier to see than surfaces that are predominantly grey, but are merely circled by narrow rings of color (Kensington device).

The Power of Easily Learned Associations, Convenience, Flexibility & Ease of Use:

In the best tradition of Human Factors Engineering, the present invention also enhances intuitive learning of **associations**. Same-colored and solidly-colored (a) outlets, (b) cables, (c) labels, and (d) adhesive color markers, together, form an easy, rapid, and highly intuitive set of associations which facilitate learning, remembering, and usage, as are provided by the present invention.

Overall, in contrast to the cited art, the present invention enhances **convenience**

²*Id.*

(e.g., includes all necessary components: color-coded power strip, color cables, color labels, self-adhesive color markers that can be retrofittably attached to existing cables and to other peripheral devices). The present invention also incorporates enhanced **flexibility** (i.e., customized power strips that can include at least eight (8) outlets, ability to retrofit existing equipment and cables).

Applicability of Principles of Gestalt Theory to Present Invention:

“Gestalt” in German means “organized whole.” Gestalt theory was developed by Wolfgang Kohler, Kurt Koffka, and Max Wertheimer in the early 1900s to emphasize the fact that when several elements are combined into an **organized whole**, the total effect of the combination (the whole or totality) exceeds the sum of the effects of its parts.³ Gestalt theory was applied to psychological studies of perception and is applicable to the present invention. For example, when a light source is placed on the rim of a wheel that is rolling along a flat surface, the perception is one of a succession of lighted inverted semi-circles. Also, when a light source is placed in the center of a wheel that is rolling along a flat surface, the perception is of a single dot of light that is moving horizontally. However, when a light source is placed on the rim and another light source is placed at the center of the wheel and the wheel rolls on a flat surface, one does not see those two separate elements, but instead sees a wheel that has a lit rim and lit center.

The point of Gestalt theory is that humans mentally process the parts into an organized whole that is substantially different from the parts and exceeds the effects of the parts. In the present invention, the elements (features) similarly form a whole that is greater than the sum of the features treated separately. The features are:

- a. color coding of the power strip using **solid** colors for each power outlet;
- b. power cords in solid colors to correspond to the colors in the power strip or, alternatively, colored stickers that can be attached to existing power cords supplied by manufacturers;

³Lyle E. Bourne and Bruce R. Ekstrand, *Psychology: Its Principles and Meanings* 3rd Ed., pp. 24-25, Holt, Rinehart and Winston (1979).

- c. colored labels for retrofitting an existing power strip or, alternatively, colored stickers with labels that can be attached to existing cords and/or equipment; and
- d. at least eight (8) power outlets in conjunction with corresponding different solid colors for each outlet, this being a feature distinct from a fixed number of 4 power outlets of Patent 5,775,935.

Although some aspects of the elements can be found in the cited art, no reference nor combination of references teach, motivate, or suggest the present invention's common intuitive scheme comprising different-colored outlets, matching colored cords, matching colored labels with indicia, and matching colored adhesive markers that together form a powerful human factors matrix of psychological associations.

Importantly, from the standpoint of Gestalt Theory, the present invention incorporates a **system of mutually reinforcing associations that is founded on the use of color**. Use of high-chroma solid colors (rather than the cited art color rings around grey outlets and the cited art that appears to be color shading against a grey, white, or black background) in this scheme facilitates rapid and intuitive association of each peripheral device, its cable, and its outlet on the basis of a single, distinctive, and high-chroma color that stands apart from colors used for the remaining devices and their connectors. The preferred scheme maintains all of the foregoing elements within it. Thus, none of the cited references teach, motivate, or suggest the present invention combination of elements nor its **development and use color as an overarching organizing principle**. On the basis of these distinctions, the present invention provides a unique human factors feature for facilitating its electronic utility.

Conclusion:

Thus, the present invention, entitled APPARATUS AND METHOD FOR POWERING MULTIPLE PERIPHERAL DEVICES FROM A COLOR-CODED CENTRAL POWER SOURCE, comprising a solid color-coded device having peripheral device identification, constitutes a solid color image which requires far less mental processing than required by the cited art that appears to be patterned color image (striped and ringed) devices, and therefore, provides superior visual perception, mental recognition, and mental retention of associations between each peripheral device and its corresponding housing portion.

9. I further declare that all statements made herein of my own knowledge are true and that all statements made on information are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-references application or any patent issuing thereon.

Respectfully submitted,



Albert Mehrabian, Ph.D.

AM:mld
November , 2000
LARIVIERE, GRUBMAN & PAYNE, LLP
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Monterey, CA 93942
(831) 649-8800